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Banishment in the Later Roman Empire, 284–476 CE

Daniel A. Washburn



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To Bob and Mary Layne Gregg.
Always plant your bulbs.

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Introduction

This book offers a reconstruction and interpretation of banishment in the late Roman world. As the Empire regrouped and then split apart, banishment became a fixture in ecclesiastical and secular politics. In short, it represented an outstanding phenomenon in the days of Diocletian, Constantine, Theodosius, Augustine, and Leo the Great. Yet later Roman banishment is elusive. It is everywhere and nowhere in the sources. Almost all scholars working on late antiquity will immediately recognize ways that their subjects intersect with exile. Despite the topic's ubiquity, however, scholarship has not examined the subject directly. The present work addresses that need. It assembles evidence strewn across a multitude of sources in order to explain how this institution operated and what it represented, both to the individuals involved and to their larger society.

I am well aware that scholars working on a multitude of late antique topics will, upon examining this book, discover that their beloved heretic, bishop, emperor, or saint has received short shrift. It should be emphasized at the outset that my aim is not to canvass every episode of exile described by the sources in late antiquity (indeed, many of these notations amount to little more than "he was banished"). My purpose is instead to create a general matrix for understanding the institution itself so that scholars treating individual instances can compare and contrast their materials with banishment's global patterns. Those interested in late antique Christianity will understand the need for a comprehensive treatment of this pervasive trend; scholars of Roman law and governance can appreciate the need to extend the discussion of *exilium* beyond the Severan era. The topic itself underscores the necessity of the Mediterranean world for interpreting the early church as well as the indispensability of ecclesiastical sources for understanding continuity and change in later Rome.

I BOUNDARIES AND TOPICS

Chronologically, the present work examines the period from 284 to 476.¹ In the year 284, the Empire began to pull itself from the mire of the third

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century, in large part on the administrative reforms of the emperor Diocletian. Part of his plan for better governance included a reconfiguration of the administrative topography. Earlier, a governor ruled a large province. Now, the provincial governors had smaller territories to manage. Additionally, most governors reported to a vicar, whose diocese comprised several gubernatorial provinces. In turn, the vicars served under a praetorian prefect, of which the empire eventually had four. This restructuring modified the way that the government categorized and ran its territories.² As a consequence, the change affected the rules of banishment by altering the ranks of officials capable of pronouncing such a sentence and the area where exiles might be sent. The Diocletianic reforms thus supply the fundamentals for the bureaucratic world that surrounds the topic of this study. Furthermore, Diocletian inaugurated a new epoch in its ideology. In contrast to the ancient tradition whereby emperors were at pains to mask the absoluteness of their rule, later emperors emphasized their regal, even divine qualities. Scholars use the terms “Principate” (from *princeps*, a term used to describe early emperors as “the first” among equals) and “Dominate” (from *dominus*, which connotes a lord or absolute power) to contrast the political beliefs of the two eras.³ The ancient sources point to Diocletian as the turning point in this progression and credit him with innovations affecting the way that subjects approached him, such as mandated kissing of the imperial purple or performing *adoratio*, as befit a god or Persian king.⁴ Thus the year 284 signals a watershed in terms of administrative organization as well as the representation of and response to political power.

The sweep of this book concludes with the end of the Roman Empire in the West. In 476 the barbarian king Odoacer deposed the last western emperor, named Romulus and known to posterity as Augustulus.⁵ Though the western Empire had expired, its eastern counterpart lived on. The events of 476 did not revolutionize all Mediterranean societies, but the moment provides the natural breaking point for the study of banishment. After 476, the geographical and administrative scope of banishment both shrank. The regions of the Mediterranean world were too disconnected for authorities in one location to transport offenders to a distant destination. Pronouncing judgment on remote individuals was even more out of the question. The western lands did not have the layers of government found in earlier centuries and hence did not have the same magistrates to pronounce a sentence or the requisite soldiery to enforce it. While exile continued in an era without Roman administration, it was practiced on an increasingly localized scale.

Certainly, examples of banishment continued even after the fall of the western Empire. Eric Fournier has demonstrated the substantial continuities between late Roman treatment of rejected clergy and the tactics adopted by the Vandal King Huneric in North Africa.⁶ Gregory of Tours, in addition, relates that at the end of the fifth century, the Goths banished both bishop Volusianus of Tours and his successor, Verus, because these bishops resisted

the theological perspective shared by almost all German barbarians. For this reason, the Goths suspected that they wished their territory to pass into the rule of the Franks, the exceptional tribe that did not hold those views.⁷ Much is opaque in an episode such as Volusianus's. Nonetheless, if Gregory has transmitted its basic outlines, it and other banishments under the barbarians were modest in their geographic scope. Volusianus moved from Turones (Tours), in northwest Gaul, to Tolosa, in southwest Gaul.⁸ In the proto-Byzantine Empire, where Rome did continue, individuals such as Flavius Apion also suffered exile for theological and criminal reasons.⁹ Ordinarily, these events were confined to the eastern Mediterranean. Under Justinian's reign, Constantinople's authority even stretched long enough to expel some Roman senators during a Gothic siege.¹⁰ However, those senators were soon brought back, and this moment expressed the ephemeral nature of Justinian's reconquest of the western Mediterranean.

The boundaries of banishment itself pose problems. The Latin language recognized several terms that could signify a form of undesirable relocation, such as *fuga* and *ex(s)ilium*. Greek speakers had almost limitless possibilities. Common words which meant "to banish" included ἐκβάλλειν, ἐλύνειν, ἐξορίζειν, and ὀρίζειν; these stood alongside the verb φεύγειν ("to flee" or "to go into banishment"). Such terms also carried adjectival and nominal forms as well. The bigger issue is that ancient authors (particularly Greek ones) used these terms so broadly that the terms could refer to any form of relocation that was undesirable, be it penal or voluntary.¹¹ In particular, when an ancient Greek source comments that individuals went into φυγή, in the absence of other information, we would have little way of knowing whether such persons went into a foreign land by their own decision or official decree. The ancient authors' underlying conviction seems to be that both those formally sentenced and those whom we would now call "refugees" shared in the experience of *exilium* or φυγή.

In this study, I am interested in intentional forms of banishment, especially those produced by official procedures. Displaced refugees, such as those who fled to the southern and eastern portions of the Empire in order to escape from the Vandals, fall outside the limits of my project.¹² The people ejecting these refugees did not imagine themselves to be inflicting a punishment that involved relocation south of the Mediterranean. Likewise, other fugitives, such as Helladius and Ammonius (pagan grammarians and teachers of the ecclesiastical historian Socrates) who vacated Alexandria in the wake of the Serapeum's destruction, or the bakers of Antioch, who abandoned the city due to the threats of count Icarius, do not make the cut.¹³ While they certainly would have faced dangerous or uncertain conditions if they had remained, there is little or nothing to suggest that their nemeses aspired to their ejection. Also, it is probably obvious that those who took refuge outside of the Roman Empire are not included in a book on banishment *in* the later Roman Empire.

These methodological choices have repercussions for the language which I employ. I use “banish/ment” as the word to describe the general concept of this book. The English words “banishment” and “exile” derive from different sources and present alternate difficulties. The former comes ultimately from the Teutonic *bann*, a “proclamation commanding or forbidding under threat or penalty,” mediated through late Latin (*bannum*) and French (*ban*).¹⁴ “Exile” descends from the Latin *exilium* and refers to the forced removal from a person’s homeland.¹⁵ As [Chapter 1](#) will show, *exilium* carried multiple definitions in the Roman Empire, and was in some cases contrasted with other terms of ejection, namely *relegatio* or *deportatio*. To avoid confusion, I refrain from using “exile” to describe the general condition of homelessness. To invoke the broad category of having been expelled formally by the later Roman government, I instead prefer “banishment.” I use “exile” as a state of being only when it stands for an example that the ancient sources term *exilium*. “Banishment” bears no resemblance to Greek or Latin terms and therefore will not inadvertently suggest any of them. However, I find myself obliged to retain the use of “exile” to refer to the person subjected to this punishment; English has no other single equivalent to designate the one banished.

Scholars working in various disciplines carry an interest in banishment/exile (the general concept rather than the Roman institution). As a result, readers may come to this book with a variety of backgrounds. Realizing that many but not all readers will have a preparation in Greek and Latin, I have attempted to accommodate the needs of both scholars of the ancient world and scholars interested in the experiences of exclusion. Throughout, I have endeavored to convey these ancient languages in ways that suit the specialist and the non-specialist alike. For instance, when a passage in Greek will interest the philologically minded, I have presented it in the original script, but have avoided integrating long Greek passages into the main text. Similarly, I have attempted to offer guidance for locating primary sources in translation when they are not obvious. In most cases, a reader of any academic background would be able to use the bibliography to track down the translated source; only a specialist could wade through Schwartz’s *Acta Conciliorum Oecumenicorum*. When possible, I have included information in the footnotes referring the reader to the relevant section in a modern translation, such as Richard Price and Michael Gaddis’s *The Acts of the Council of Chalcedon*, which neither bears the same title as nor uses a numbering system obviously identical to the original work.

A final note on the subject of language and terminology: the patterns of ancient banishment pose a predicament for the modern scholar alert to the perils of gender-exclusive language. In the later Roman period, most of the banished and all of the magistrates who sentenced them were male. I hasten to add that some exiles were female; this trend receives direct attention in [Chapter 5](#), part VI. Much of this book discusses abstract patterns—banishment as the laws imagine it or as historians can reconstruct

it. Describing general conditions in inclusive language (for instance, “when an exile retained his or her possessions” or “the effects banishment had on her family”) inevitably create the impression that the unknown individuals in question could well have been female. The evidence strongly supports the conclusion that most of its victims were male. Despite the antiquated ring, I therefore use male pronouns for the main participants in the banishment process. I make no such assumptions for other roles in Roman society and avoid exclusive language elsewhere.

II EARLIER ROME: TRENDS AND APPROACHES

A brief survey of the antecedents in earlier Roman history helps to throw the trends of the later Empire into sharper relief. The first chapter explores the differences between legal categories in some detail; nevertheless, a minimal understanding of terms is necessary to understand previous scholarly debate. In outline, as Rome shifted from a republic to an empire, its institution *exilium* evolved from a token of aristocratic privilege to a magisterial punishment. In the Republican period, Roman *exilium* began as an alternative to punishment, not as a punitive measure itself. Under this option, a person could quit Rome in order to escape an actual penalty. A kindred measure known as *aquae et ignis interdictio*—the interdiction of fire and water—developed as a means to ensure that an exile did not return. This step prohibited those in Rome from giving aid to the *interdictus*. A death warrant within the city, it compelled the exile to get out and stay out. Separately, city magistrates accumulated the power to eject dangerous individuals; this punitive variety of exclusion, *relegatio*, became the normative type of banishment in the late Republican period. Along with this, *deportatio* later developed as a more aggressive method of banishment in the early second century. *Deportatio* shared with *relegatio* its compulsory nature, but carried additional disadvantages.

For almost two hundred years, scholars have debated the significance of *exilium* for Roman civilization, though the focus has fallen principally on the earlier periods. Nineteenth-century German scholarship shared a working consensus, grounding its analysis in large part on a specific set of evidence.¹⁶ First, scholarship emphasized a short passage from the history of Polybius, indicating that when the Roman tribes were in the process of voting to sentence a citizen, the accused could voluntarily flee to territories that held a treaty of isopolity with Rome in order to evade this verdict.¹⁷ Chiefly, this scholarly cohort turns to Cicero in order to sleuth out the process of banishment. One paramount Ciceronian passage derives out of the oration, *In Defense of Aulus Caecina*.¹⁸ There Cicero claims that *exilium* is a refuge, not a punishment, and that those who avail themselves of it discard their Roman citizenship by virtue of changing their location.¹⁹

Scholars have since queried these passages with a measure of suspicion. Richard Bauman has argued that Cicero and Polybius do not perfectly agree. Whereas Polybius states clearly that the flight into exile could occur only before the trial was complete, Cicero, Bauman believes, implies that the accused could depart into voluntary exile before or after being sentenced.²⁰ Gordon Kelly argues that the possibility to escape into exile was a convention rather than a statutory right.²¹ Additionally, Kelly disavows the common notion that a Roman citizen's right to exile was valid only when he obtained refuge in a state that had a treaty of isopolity with Rome. Kelly believes that scholars who hold this view over-read the key passage from Polybius and give it too legal an interpretation. In his estimation, Polybius speaks of a common practice but not the exclusive manner of banishment.²²

Scholars over the last fifty years have pressed further for diachronic shifts in exilic custom and terminology, though in substantially different ways. Ernst Ludwig Grasmück sees a crucial change in the nature of exile with the passing of the Republic into Principate. In the early Empire, *deportatio* and *relegatio* became new coercion techniques, signaling a contrast to the traditional role of *exilium* as a volitional option. Thus it became a punishment rather than a perk.²³ In a recent study, Gordon Kelly makes a compelling case for separating the history of *exilium* in the Republic into three distinct periods, one from the early Republic down to the Gracchi (for Kelly, down to 123 BCE), the second lasting through the Social War (88 BCE), and the third from the Social War to the death of Julius Caesar (44 BCE).²⁴ In this rubric, changes in Rome's position in Mediterranean politics influenced the particularities of exile, seen most clearly in the areas to which Roman exiles went. The history of *exilium* is for Kelly the story of the Republic writ small.²⁵

Scholars have disputed the political-theoretical values that surrounded *exilium* by questioning not just its legal groundwork but the social function as well. Against earlier scholarship, which viewed it as an exercise in exclusion, Giuliano Crifò reads the practice as an expression of solidarity among the aristocracy.²⁶ That is, it strikes Crifò as an illustration of personal liberty rather than as the termination of Romanness.²⁷ Peter Garnsey's early work shares Crifò's interest in class basis, but envisions the institution's effect on a larger cross-section of society. He finds that the sources attest to examples of such punishments being practiced upon the lower classes. That such episodes do appear in the sources, he concludes, overthrows the view that only upper-class criminals received this sentence because only they could afford to support themselves in exile.²⁸ Grasmück construes the matter differently, explaining *exilium*'s growth as an effort by society to curb application of the death penalty. Two causes lay behind this restriction, he believes: a limitation on private revenge and a safeguard against social attrition.²⁹ Grasmück also contends that the shift from a right to a punishment constitutes an ominous change, one that mirrored

an increase of defenselessness and the silencing of *parrhésia*, the forthright free speech philosophers used to address men of power.³⁰ Bauman considers Roman ideals in the realm of political theory in order to elucidate exile's meaning. He views voluntary *exilium* as an illustration of the notion of *humanitas*, "both a civilized attitude towards all people and a cultural background appropriate to that attitude."³¹ When, in the last days of the Republic, the concept of exile transformed into a punishment, it shifted its position relative to the balance between *humanitas* and its antithesis, *utilitas publica*—the public interest. The new form, compulsory expulsion, now gave expression to both sides of the tension: *humanitas* demanded that blood not be spilt; *utilitas publica* required punitive action against the offender.³² Against Bauman's notion that *humanitas* inspired the institution of voluntary exile, Kelly argues that this value had little practical influence on Roman affairs.³³ He posits a theory about exile's meaning based on the social function that it served. This inclination leads him to introduce a different Roman value to use as "the key" for interpreting exile's cultural background, namely, *concordia*, which "stressed political harmony among individuals and social classes to ensure the smooth governance of the state."³⁴ The practice of *exilium* advanced the notion of *concordia*, Kelly argues, because it diminished potential conflicts by removing one party.

Finally, one contemporary mode of scholarship prioritizes banishment's discursive dimensions. Here, the emphasis falls on cultural constructions and strategies of selfhood. In a pioneering work, Jo-Marie Claassen observes in the Latin literature, from Cicero to Boethius, the connections assumed between exile, political impotence, mortality, isolation, and loss of speech.³⁵ Her investigation exposes ways that exiled authors modulate their authorial personae in order to compensate for the powerlessness of banishment.³⁶ Second Sophistic scholar Tim Whitmarsh uses the literature of exile as a diagnostic tool to expose strategies of "cultural identity."³⁷ He argues that second-century authors used the experience of exile to draw from certain cultural norms and to upend others. In contrast to classical thinkers, Musonius Rufus, Dio Chrysostom, and Favorinus felt that that the entire Mediterranean world, instead of a particular polis, sufficed to generate a self.³⁸ Furthermore, Whitmarsh identifies discussions of banishment as "a nodal point where Greek cultural self-representation meets Roman power."³⁹ Exiled authors transformed their banishment from an expression of social death to a badge of "philosophical success."⁴⁰ Finally, a recent volume entitled *Writing Exile: The Discourse of Displacement in Greco-Roman Antiquity and Beyond* includes the work of several authors investigating the literature of exile (principally in antiquity). The volume's editor, Jan Felix Gaertner, articulates one of the book's core principles when he writes that:

[T]he treatment of exile [from any given author] depends not so much on personal experience as on literary, and more generally cultural,

canons. The experience of the (real or metaphorical) exile of writers and fictitious or historical characters is interpreted and presented within an inherited, but continuously modified, framework of concepts of displacement and wandering, which depends heavily on educational and intellectual traditions.⁴¹

In concert with modern points of emphasis, Gaertner and the other contributors unpack the cultural world that sustains, and in turn is modified by, the literature written in or about exile. This methodological approach sees the deepest consequences of banishment in the rhetoric and modes of presentation available to those who depict it.

III THE EVIDENCE: PROBLEMS AND STRATEGIES

Writing about the Roman Republic, Gordon Kelly concedes, “No ancient source provides a detailed treatment of the practice or development of *exilium*. As a result, brief descriptions, summary remarks, and other scraps of information from disparate sources must be collected, interpreted, and fitted together to form a coherent picture of this phenomenon.”⁴² His words apply with equal force to the later Empire. For that era, very little, and perhaps no, information about banishment comes to us in a way that coheres easily with modern agendas and questions. The types of sources are manifold, each with particular difficulties. Moreover, the sum total of evidence does not create an even depiction of all aspects of banishment. Certain moments in the process and types of individuals remain especially shadowy. Creating a coherent portrait of banishment requires the historian to locate hints and then conjecture about their general application. Even if we can make out a general trend in this time period, it is certainly the case that some instances do not fit with the overarching pattern. In those cases too, the historian must decide what needs to be rethought: the pattern or the exception. Throughout, I have sought to identify those places where the evidence becomes particularly thin and necessitates guesswork. In this introductory section, I wish to acquaint readers with the categories of evidence available to the student of banishment, the information that the sources do and do not transmit, and my strategies for interpreting the extant evidence. In many instances, alternate readings could be possible. If readers do not find themselves in agreement with my hermeneutical tactics, they may at least find those tactics lucid and internally consistent.

The essential problem bedeviling the study of banishment is that the sources that contain relevant evidence fall into two categories: those that discuss the legal principles which could hypothetically be drawn upon, but not specific implementations, and those that describe an actual case, but not the legal categories under which it fell. The first type of source lays down guidelines that might or might not have been executed. Examples of

the second type of source (“extra-legal,” “narrative,” or “historical”) tend to depict acts of banishment in a virtual legal vacuum. From this, I surmise that the average observer, even a literate and interested one, operated in near total ignorance about the distinctions. Of course, such a person might suddenly become very interested if he himself were banished and tried to figure out, say, how much of his wealth his family could retain. Most individuals commenting on banishment were struck by the raw exercise of power, not its rationale. At times, we can make deductions from one type of source to another. Frequently, we cannot. Because the extra-legal sources describe the kinds of encounters that do not fall unmistakably into the rubric created by the legal ones, we often cannot know for certain what justifications lay behind a given instance or, conversely, whether a legal abstraction generated actual cases.

Moreover, legal and extra-legal documents present unique challenges. Of the various texts falling under the “legal” heading, paramount is the Theodosian Code.⁴³ This compilation of laws issued by emperors corresponds loosely with the period under review here. At its best, the Code can expose us to moments when the imperial court reflected on the kinds of offences that could lead to banishment, the correct legal response, and the appropriate magistrate to handle the affair. While the Code ordinarily speaks to general conditions, it very occasionally contains a law pertaining to a specific case. There are, however, dizzying complexities that inhere in this source, some of which confront any historian combing its pages, others of which pertain specifically to the kinds of questions I wish to submit it to.

In general, a law (*constitutio*) as we now read it is the product of a vast and complicated procedure, any of whose steps would be invisible to us but influential on the final outcome.⁴⁴ While in theory imperial *constitutiones* could be one of several forms of communication, the types common in late antiquity and preserved in the Code were *epistulae* (letters sent to magistrates) and *edicta* (general pronouncements made to the public rather than to an official).⁴⁵ The vast majority of constitutions in the Theodosian Code are examples of the first type of imperial communication. While the laws frequently read as if they represent the emperor’s own agenda, the initiative for a constitution could come from the emperor (and his court) promulgating the law or from the official receiving it. In some cases, an emperor might legislate unsolicited. On the other hand, an official such as a praetorian prefect could propose a law in a text known as a *suggestio* (“proposal”), even if that data is not in evidence in the law as it appears in the Code.⁴⁶ The *suggestio*, however, could be in response to an imperial request for information, in which case the impetus would still lay with the emperor, not the lower official.⁴⁷ This proposal was then discussed, perhaps by the emperor’s consistory (the imperial council) or by a larger group that could have included senators and palatine ministers.⁴⁸ Next, an officer known as the quaestor composed the text of the law. This draft then received discussion, again, by either the consistory or the larger group. When the draft

was approved, it was read out before the emperor, who signed the text, thereby making it law. Thus the text of the law might receive influence from several sources: the *suggestio*, the quaestor's draft, and the alterations from group discussion.⁴⁹ From this law, another high-level palatine official, the *magister memoriae*, produced letters to administrators which incorporated the approved law but which could also add special instructions as well.⁵⁰ The provincial administrators who received these letters then posted them in public so that interested parties might learn of them.⁵¹ In sum, the final text might be the work of many hands; alternatively, it might be a rubber-stamped version of the original *suggestio*.

This system generated many such laws. Eventually, in the middle of the fifth century the emperor Theodosius II initiated a project to collect and organize them (a first, aborted attempt was made in the 420s, a second, successful endeavor in the 430s). Theodosius commissioned a body of scribes to collect laws from the time of Constantine (313) to his day (438).⁵² He tasked the scribes not to gather up every law, but rather only those which possessed the quality of *generalitas* (general application for similar future cases).⁵³ However, it is not the case that the "general" constitutions found in the Code were free from external stimuli. In fact, in many if not most cases, the law came about in part because of concerns from magistrates or citizens, though the Theodosian scribes removed the references to particular cases from the extant laws.⁵⁴ In addition to collecting, the scribes were to group the laws into similar categories and to trim from the laws any unnecessary verbiage. The principle of the scribes' task was to excise only that material that was inessential.

These, then, were the processes by which a proposition became a law and a law became part of the Theodosian Code. But what of the relationship between the Code as it was originally compiled and the manuscripts that circulate in modern study? Of the sixteen books of the Code, the first five must be heavily reconstructed, largely on the basis of the *Lex Romana Visigothorum* (a Germanic code of 506 also known as *Breviarium Alaricianum*) and the *Codex Justinianus* (the Code of Justinian), a sixth-century compendium of earlier codes, including the Theodosian, and recent laws.⁵⁵ Thus for nearly a third of the Code, the text in modern editions is not based on the text produced by the Theodosian scribes, but rather upon texts that sought to extract elements of the original text for new purposes.

Alongside these intricacies stand further historical uncertainties. The position of the quaestor, so central to the entire process, evolved significantly in this period, but in ways often obscured from the historical record. In the early Empire, the quaestor's function was to read the emperor's letters to the Senate.⁵⁶ In the later period, it became to compose the language of the laws.⁵⁷ One later source claims that Constantine was the emperor responsible for giving this post its new shape, but no other evidence confirms this claim.⁵⁸ Rather, the first attestation of the quaestor operating in this new sense comes from the reign of Constantine's son, Constantius.⁵⁹ It may well be the case

that the position of the quaestor evolved under Constantine, yet we cannot be certain. In any event, the development of this office was most likely a gradual one in keeping with the rise of the palatine officials.⁶⁰ Scholars disagree about how much the Code's constitutions express the mind of the quaestor. Some believe that the quaestor held responsibility for the law's tone, and occasionally its content.⁶¹ Others hold that the laws of the Code were generated in a process that allowed so many influences that we cannot be sure that a given passage is from the quaestor's hand.⁶²

It is important to note that, whatever the actual authorship may have been, contemporaries understood the tone of a law as that of the emperor.⁶³ The laws generated a type of propaganda that helped to create the emperor's public persona. In addition, an emperor's degree of agency in the laws might well have varied according to his personality and vitality, with one such as Constantine likely bearing much of the responsibility.⁶⁴

This constitution-making process resulted in instructions enjoining magistrates to act in certain circumstances. We have no way of knowing, after the law made its way to the relevant magistrate, whether future magistrates did as bade. Indeed, we cannot know whether the crimes worried over in the law ever took place again, or in some cases whether they even occurred in the first place. After all, while real and ongoing trends must have occasioned many laws, it remains possible that rhetorical, unrealistic, or preemptive thinking led to others. When a law that speaks out harshly against an offending phenomenon, it quite likely does so because that phenomenon had become a genuine concern for the magistrates or emperors and not because the imperial bureaucracy seized upon a fictional problem in order to promote an image of itself as capable or concerned. The difficulty is that we have no way of knowing.

There exist other forms of imperial legislation from this period not contained in the Theodosian Code. In a few instances, laws have come down to us in other collections, thus adding to the total of evidence and permitting some perspective on the degree of alteration. The Sirmondian Constitutions, a group of sixteen laws from the same period, provides the fullest comparison for the texts of the Code. Ten of the Sirmondian Constitutions represent the unedited versions of the laws truncated by Theodosius's scribes.⁶⁵ Nevertheless, the core problems of authorship persist, even if the level of redaction is reduced. The Code of Justinian provides additional coverage as it contains material from a broader chronological range, from the second century through the sixth.⁶⁶ For the most part, its laws related to banishment also arise in the Theodosian Code. However, Justinian's Code also contains imperial enactments from the pre-Constantinian era.⁶⁷ These help to illuminate the role of banishment prior to and at the beginning of the later Empire.

Nonetheless, the Theodosian Code remains the most abundant legal source for this period. Its laws are potentially derived from an unknown originator, drafted and reworked by a committee, shaped by an editorial

magistrate whose position evolved imperceptibly over time, conceivably ignored in actual application and even generated in response to crimes that never occurred in the first place, redacted later by scribes, and perhaps heavily reconstructed from a dodgy textual transmission. Yet not all hope is lost. Awareness of what the evidence does and does not reveal and the cautious conjecture about the unknown elements can render the imperial constitutions, with all of their difficulties, an indispensable resource in the study of banishment. Though the merits and meaning of any particular law surely must vary according to the example at hand, I do hold general judgments concerning the qualities of the evidence from these sources.

The core question is how to extrapolate social history from imperial constitutions generally and those found in the Theodosian Code in particular. My approach views the laws as reflecting, rather than creating, social norms. Recognizing that the constitutions still contain “rhetorical concerns” (elements designed to create an aura for the regime issuing them rather than to achieve any concrete effect), my analysis presumes that the laws usually describe things that did occur or things that could possibly occur in the social circumstances which they envision. I presume that most of the laws respond to genuine developments, or at the very least they conceive of trends that struck contemporaries as plausible. In most cases I believe that the laws make the most historical sense as the reflections of practices at the time and governmental interest in their consequences for the Empire’s infrastructure. In terms of authorship, while the laws speak as if they expressed the emperors’ wishes and interests, their content often arose as the product of the process. This means that enactments frequently bear witness to a collective concern, even if they ratify only one answer to that problem. Some imperial personalities (such as Constantine’s) shine through the legislation, but more often the laws, it seems to me, reveal a preoccupation shared by the imperial court, a lower official, and quite likely the citizens affected by its ruling. At a minimum, a constitution issued must accord with the agenda of someone in the imperial court well enough that the person, or persons, would approve it. If it did not cohere with the agenda of the imperial government at all, then such a proposal should not have become law. A law, then, that originated as a *suggestio* and grew into its final form under an imperial committee may express nothing of the actual emperor’s mind, but it would reveal the topics and attitudes of other, often anonymous, participants in the process. In short, we may not know whose perspective a law contains, but we can still deduce that laws disclose someone’s views.

Of course, not only do social realities affect legislation, but legislation can also steer social realities. Once an imperial court issued a law, that law could then influence future cases. I do not deny that this regularly happened, nor I do not assume that it always did. Magistrates could interpret their instructions selectively, creating outcomes at odds with the ideals laid out in the imperial enactment.⁶⁸ Moreover, Roman justice depended more

on public accusation for crimes already committed than a robust policing system to ward off future infractions.⁶⁹ This fact means that even when a magistrate faithfully published an imperial instruction with the sincere intent to enforce it, he remained dependent on private individuals to bring infractions to court. In terms of the geographical scope of imperial legislation, I attach the likelihood of wider application and influence to laws issued before 395. To that point, laws issued by one emperor (at least in theory) spoke for the entire college of emperors and therefore were valid throughout the realm.⁷⁰ After the death of Theodosius I, the division of the Empire, which had been building for decades, became inescapable and more formalized. Laws throughout this period bore the names of both the eastern and the western emperors; however, the two spheres did not automatically adopt the other's legislation.⁷¹ Thus, fifth-century constitutions have the possibility to reveal affairs in their half of the Mediterranean, but unless they have analogs from the alternate half, probably do not suggest anything about the other region. In other words, we can be fairly certain that laws which came after 395 could only have influenced affairs in the portion of the Empire, East or West, where they were created. Ultimately, while I certainly allow that laws helped to mold the Roman world, my argument does not turn on the execution of the laws known to us only in the abstract.

There remain questions of what role the quaestor played, and what rhetorical purposes the laws served. Particularly in [Chapter 2](#), part III, I scrutinize the language of the laws in order to determine how authorities regarded the function or meaning of punishment. Cherry-picking a few scattered references could lead to a distorted picture in this project. I have sought to attend closely to what the laws say and how they say it, but to attach greater weight to tendencies which recur extensively. A persistent trend can suggest the prevalence of a phenomenon existent beyond the imperial court; particularly when notions expressed in laws accord with the outlook found in other literature, it suggests that legal and non-legal authors were channeling a broader movement.

Extra-legal sources represent the other side of the picture. Although each document contains unique complications, one overarching difficulty appears in many of the sources from the later Roman Empire: they were written by Christian authors whose interests do not coincide with those of a modern historian. This fact has implications on multiple levels. On the first, it means that the data as the ancient authors knew it took place within a specific context, often a doctrinal controversy, which may bear significant differences from examples arising in non-church affairs. Church literature focused on the events that mattered to its history, but not necessarily the ones that best typified the time period. Historical sources for the fourth century (and beyond) grow increasingly Christian; in turn, these Christian sources grow increasingly interested in depicting the struggles and eventual triumph of their religion or their religious party through the historical

record. For every Ammianus Marcellinus, there is a score of ecclesiastical historians. Thus readers might well come away with the impression that nearly all exiles in the later Empire were bishops; this supposition, however, results from the fact that most of the authors describing banishment wrote primarily because of their interest in church history. A reconstruction of banishment must utilize ecclesiastical evidence as the richest vein from the era without taking that particular form of evidence as normative for all types of banishment. My approach assumes that the administrative framework used to banish clergymen was much the same as that which would have been used in other instances. Conversely, in [Chapter 2](#), parts II and III, I lay out what I see as the purpose of and social vision at work in the banishing of divergent Christian groups. This is done in order to establish the extent to which banishment operated uniquely in those cases. I argue that the expulsion of sectarians differed from other groups in the later Empire in degree, not kind, but stood apart from religious ejection in earlier Roman history.

Secondly, the authors' motives for writing arose out of theological or polemical concerns. Not only does this fact create concerns over a source's reliability, it means that the very categories that a thinker uses to describe banishment may be drawn from literary or religious tropes. When readers of bishop Athanasius encounter the claim that the duke Syrianus endeavored to arrest him with a host of over five thousand soldiers, historical instinct suspects that the figure must be approximate, if not inflated (How would Athanasius know how many soldiers surrounded his church? Did he count them?).⁷² Leaving aside the issue of exactitude, we can still use Athanasius's witness to ascertain that military officers, such as a duke, would have come supported by a substantial detail in order to apprehend a popular metropolitan bishop. But what useful historical data resides in Athanasius's assertion that the emperor Constantius's penchant for banishing bishops made him crueler than Ahab, Pharaoh, and Pontius Pilate?⁷³ The latter account in fact tells us next to nothing about Constantius's motivations, techniques, or character.⁷⁴ It does, however, indicate the ways that bishops in the fourth century explained their travails. Importantly, it also reveals a mentality that underlies much of the evidence available to us, at various levels of explicitness. Devices including biblical motifs, a conflict between depravity and righteousness, and political resistance exercised a powerful influence over the thinking of the authors on whose work this reconstruction depends. That Christian accounts of banishment dwell extensively on conceits such as these and not at all on legal specifics certainly lends support to Gaertner's claim that any literary depiction of exile hinged more on a writer's literary and cultural expectations than on the details of his sentence. Our sources may describe events that did truly happen, but they never do so *simply* because those things happened. The descriptions invariably sit within a larger agenda, typically to extol and exonerate one faction and to denigrate the opposition. In aggregate, the ecclesiastical materials may create powerful distortions on the subject of banishment.

A historian of late antique Christianity must then find ways to proceed despite those obstacles. My approach assumes that “rhetorical” does not mean “worthless.” The obstacles themselves constitute an important piece of data. What seems to be historical narrative often contains as much exhortation as it does a record of events. The propagandistic elements indicate part of the tussle occurring between various Christian camps. The struggle took place not only over what religious outcomes ensued from councils and magistrates but over whose narrative of those outcomes would endure. We see in the ecclesiastical sources a twofold conflict: to shape events and to shape the memory of events.

1 Varieties and Commonalities

Later Roman banishment was no simple category of experience. Instead, it involved a host of phenomena under Roman law and practice, all of which entailed involuntary relocation. Appreciating the range and diversity of banishment is an important first step in understanding its function in later Roman society. More than anything, banishment was multifarious. Any of its elements—such as duration, location, or status—could vary by circumstance. Enforced ejection could take any number of forms in order to place a given sentence at a unique spot along the ideological continuum of Roman penalties, stretching from clemency to severity.¹ In this as well, banishment reveals a hybrid nature. It coerced even while it exercised restraint.

I THE JURISTIC BACKDROP

Banishment had to arise through set channels in the later Roman system of justice. In practice, this process had established patterns, possibilities, and a distinct nomenclature. These modalities must be teased out carefully to comprehend its groundwork in later Roman civilization. In the period just prior to the later Empire, second- and third-century jurists (legal experts) endeavored to work out the nuances and definitions of existing Roman law and covered an array of topics, including banishment.² Applying their formulations to the later Empire presents certain difficulties. In particular, the jurists exhibit an antiquarian view of Roman law, one that did not recognize or anticipate its significance as the system of a world empire but rather looked backwards towards the code of a city-state.³ Nonetheless, the jurists have several critical contributions to make to this study. First, they present an overview of banishment which is far more systematic and theoretical than anything from the late third, fourth, or fifth century. Second, they betray the usages and understandings of banishment common to the era leading up to the later Empire. Third, their writings, even if outdated, would have been some of the only guides available to later magistrates and thus would have carried influence in our period.

The key terms in the jurists' writings and in legislation of the later Empire are the Latin words *deportatio*, *relegatio*, and *exilium*.⁴ The concepts, denoting various forms of banishment, had been introduced in Rome's history, but they had arisen without a clear structure in mind.⁵ The verbs *deportare* and *relegare* originally carried non-technical definitions, simply meaning "to convey" and "to send away," respectively.⁶ These strands wove themselves together haphazardly and created a tangle for the jurists to sort out. As legal punishments, they acquired more precise implications, even if some of these were up for debate. In terms of *relegatio* and *deportatio*, it is less that the jurists contradict each other than that they offer alternative, mostly compatible, explanations. Matters were more complex with *exilium*. Here, we find the jurists using the word sometimes in clearly different senses and at other times in vague ways that suggest, but do not absolutely necessitate, opposing understandings of its meaning.

A primary point of discussion among the jurists is the contrast between *deportatio* and *relegatio*. Five major factors could distinguish one form from the other: permanence, property, civic status, location, and rank. Permanence and retention of property receive some of the most lucid treatment. On both subjects, the jurists maintain a consistent message: things were always the worst with *deportatio*, while *relegatio* left room for moderation. In terms of duration, Julius Paulus (early third century) discusses *relegatio* in a way that certainly implies that it could have a specific time limit or last permanently. On the subject of certain forms of forgery (*falsum*), he states that the guilty "ordinarily are punished more mildly, so that they are relegated for a period and their goods are not taken away from them."⁷ Paulus's expression implies that *relegatio* had more severe permutations as well, although it does not require this interpretation. More clearly, Sextus Pomponius (middle second century) states that *deportatio* was by definition unending and that *relegatio* could be temporary or permanent, on which point he is joined by Domitius Ulpianus (or "Ulpian," third century).⁸ Overall, the jurists contend that property retention should operate in quite similar ways. Aemilius Papinianus ("Papinian," died early third century) opines that *deportati* lose their property; Aelius Marcianus ("Marcian," middle third century) declares that temporary *relegati* usually hold on to it; Aemilius Macer ("Macer," early third century), without commenting on the likelihood, suggests that the property of a *relegatus* could be confiscated.⁹ More systematically, Ulpian holds that *deportatio* automatically deprived the condemned of their property but *relegatio*, at least in its temporary expressions, did not.¹⁰

The jurists' discussions of civic status are not as straightforward. They could approach this issue from the direction of general citizenship or specific rights. Marcian offers the most comprehensive statements on this subject. He indicates that those who have been deported also lost their Roman citizenship; this makes them stateless and therefore subject to the *ius gentium* (the law which Rome used in its dealings with members of

other states) and no longer qualified for the *ius civile* (the citizen law of Rome).¹¹ Paulus suggests that because *deportati* have surrendered their citizenship, they have lost their testamentary rights as well.¹² Ulpian contrasts *deportatio* and *relegatio* on this point, observing that the former removed citizenship while the latter left it intact.¹³ The consensus seems to be that *relegatio* almost always did not affect civic standing. Marcian and Paulus believed that *relegati* ought to retain their rights; Macer qualifies this view to note that the emperor alone could rescind the civic rights of the *relegated*.¹⁴ Another way that the jurists handle this subject is by adducing the effects that various punishments, such as *relegatio* and *deportatio*, had on one's *caput*. The word in its basic sense simply meant "head," but in legal discourse it signified the total of rights of a Roman citizen, in particular the person's freedom, citizenship, and familial authority.¹⁵ A phenomenon known as *capitis deminutio* signaled the effects of a penalty that removed any of those three things.¹⁶ The jurists turn to *deportatio* and *relegatio* to concretize the principle. Gaius (second century) distinguishes intermediate *capitis deminutio*, in which citizenship is lost but freedom retained—as when one suffers *aquae et ignis interdictio* (the precursor to *deportatio*)—from maximum *capitis deminutio*, in which one forfeits both citizenship and freedom.¹⁷ Similarly, Marcian states that though *deportati* have lost their citizenship and therefore cannot manumit slaves, they at least have retained their own freedom.¹⁸ Paulus also suggests that *aquae et ignis interdictio* removes one's civil life, whereas *relegatio* does no such thing.¹⁹ By way of contrast, Callistratus (early third century) believes that the "*aquae et ignis interdictio*, which comes to pass in the person of those deported," signifies a *magna capitis minutio*, rather an intermediate form of loss, because it consumes one's liberty;²⁰ to Callistratus, it is *relegatio* that preserves this aspect of one's *caput*.²¹ Indeed, Callistratus makes capital punishment the dividing line between *deportatio* and *relegatio*. He believes that capital punishments (*capitales poenae*) include, in descending order of severity, crucifixion, burning alive, beheading, working in the mines, and *deportatio*. Conversely, non-capital punishments target one's reputation and include *relegatio* (be it permanent, temporary, or to an island), forced labor, or beating with rods.²² This sense of *deportatio* would appear to be in the minority, however. Macer, Marcian, and Herennius Modestinus ("Modestinus," middle third century) use *deportatio* as a contrast to capital punishment.²³ In total, the majority view was that *relegatio* did not involve a *capitis deminutio*, but that *deportatio* deprived a person of all else (including his citizenship), leaving him only his freedom.

In terms of location, the jurists leave much unanswered. Marcian (who conflates *relegatio* and *exilium*, a point discussed below) explains that the physical aspect of *exilium* could take place in three ways: by prohibiting the exile from certain places, by prohibiting all places except one (which Marcian calls *lata fuga* or "extended banishment"), or by "fastening to an island—that is, *relegatio* to an island."²⁴ That final possibility seems

a little awkward, as it is more like a specific version of the second option than a difference of kind. Ulpian avoids such an ambiguity by mentioning only possibilities that equate to Marcian's first and third options. According to Ulpian, *relegatio* could take two different shapes, either barring the person from one area or sending him to an island.²⁵ In these occasions, the jurists touch upon the locative possibilities of *relegatio*; they are inconclusive on the spatial dimension of *deportatio*. For instance, Ulpian refers to "*deportatio* to an island," but this does not establish whether other types of *deportatio* allowed locative freedom.²⁶ It seems intuitive that *deportati* would often have been condemned to a specific spot and did not have the liberty to go where they liked, unlike the conditions under milder expressions of *relegatio*.

On occasion, the extant extracts speak to the connections between versions of banishment and social standing. Elite status was an elusive but invaluable quality and could be referred to with various Latin terms, including *dignitas* and *existimatio*.²⁷ This quality designated its holders as prestigious and powerful; in Roman law it offered immunity from the worst aspects of the justice system.²⁸ The jurists understand the significance of *dignitas* (and its synonyms) for banishment in several ways. First of all, they register the effect of *dignitas* on the sentence itself. They assume that it was *dignitas* that entitled a person to receive more lenient sentences, such as temporary *relegatio* instead of permanent *exilium* on one hand and *deportatio* instead of death on the other.²⁹ Additionally, they offer some commentary on banishment's potential effects on one's *dignitas*. There is enough data to suggest that *deportatio* ordinarily stripped a person of this quality. Callistratus believes that *deportatio* eradicated *existimatio* but that *relegatio* worked by damaging *existimatio*, though only to impair it.³⁰ Ulpian and Papinian both comment on cases when *deportati* had been restored and had been granted the return of their *dignitas*.³¹ Their expositions assume that *deportatio* normally involved its forfeiture. In certain cases, then, there developed a curious relationship of cause and effect: the sentence of *deportatio* negated *dignitas*, which was the very quality that could lead to *deportatio*. If a governor or other magistrate consistently applied the principles developed in the jurists' discussion of other facets, then he would most likely use the rules governing civic status as a guide—*relegatio* in most cases would not cancel out one's rank, while *deportatio* would do just that.

In sum, if the jurists' various notions are combined into one grand conglomeration, as they were by Justinian's compilers, then a basic contrast between *relegatio* and *deportatio* is established. *Relegatio* could be temporary or permanent, could involve the retention or the forfeiture of property, usually preserved Roman citizenship and its attendant rights, might exclude the victim from a general area or place him at a specific one, and probably did not affect a person's rank. *Deportatio* was permanent, involved a loss of property as well as of Roman citizenship, probably sent the victim

to a specific locale, and canceled out the exile's *dignitas*. The difference between the two penalties was partially that *relegatio* contained more flexibility than did *deportatio*. In addition to the particular distinctions related to any given dimension, the overarching contrast was between necessary severity (*deportatio*) and optional severity (*relegatio*).

The terms *ex(s)ilium* (the condition of exile) and its analogue *ex(s)ul* (a person in exile) appear in the jurists' opinions with subtler shades of meaning. The basic problem is that *exilium* is used often in vague ways and, when it is employed more specifically, carries at least two different senses. First, some jurists identify *exilium* with *deportatio* and place this term in opposition to *relegatio*; because this usage understands *exilium* in the severest sense, I will refer to this sense as the "maximal" usage. As stated above, Paulus avers that capital punishments include "death or *exilium*—that is, *aquae et ignis interdictio*—as, by these penalties, civil life is removed. For the others are not strictly speaking called *exilia* but rather *relegationes*."³² His major assertion is that *aquae et ignis interdictio* (a concept which had substantially been replaced by *deportatio*) and *relegatio* belonged under different headings. However, even from Paulus's own presentation, it is clear that his understanding of the terms was not held universally. The last clause acknowledges that some were in the custom of referring to the capital form of banishment as *exilium*, a habit which Paulus regards as mistaken. Gaius seems to share the maximal sense of *exilium*. He speaks of those who bring a false allegation as being condemned to a list of possible sentences: *exilium*, *relegatio*, or loss of rank (*ordo*).³³ While he does not explain what he understands by *exilium* or *relegatio*, his statement, on the face of it, imagines the two as distinct categories. *Pauli Sententiae* (an anonymous source from the late third century) uses the term *exilium* in a way that fits most easily into the maximal rubric. This work bifurcates punishments for certain culprits. If one seduced a virgin but happened to hold upper-class status, *Pauli Sententiae* prescribes *relegatio* to an island or *exilium*. Similarly, it stipulates temporary *relegatio* or *exilium* for corrupt pedantic judges.³⁴ Musing over the principles that governed whether a woman could receive her dowry back, this same work considers whether her father had been relegated to an island or was in *exilium*.³⁵ In each case, *Pauli Sententiae* contrasts *exilium* with a specific form of *relegatio* (be it temporary or to an island). It is possible that *exilium* in that work serves as a general state which stands in opposition to the more carefully defined forms of *relegatio*. However, the fact that *Pauli Sententiae* consistently contrasts the two gives the strong impression that it adhered to a distinction between *exilium* and *relegatio*. The maximal usage is the most natural way to understand that diction.

Second, certain jurists construe *exilium* as a generic category that includes both *relegatio* and *deportatio*, a usage which I will call "inclusive" as it includes both deportation and relegation. Ulpian makes it clear that he considers *deportatio* a form of *exilium*. Discussing *deportatio*, he refers

to the condition as “*exilium* of such a kind” (*tali exilio*).³⁶ While Ulpian’s phrasing leaves a bit of ambiguity, the fact that he thinks *exilium* has different permutations, which include *deportatio*, shows that his framework for *exilium* is the inclusive one. Though he wrote in the seventh century, Isidore of Seville charged that *exilium* was of two types: those who are relegated and those who are deported. This is a clear statement of *exilium* in the inclusive sense, but from a very late source.³⁷

Finally, in some instances the jurists use *exilium* in ways that might carry the inclusive meaning but seem rather to hint at a third use of the term, as a synonym for *relegatio*. I will call this the “minimal” sense because it takes *exilium* as a more modest form of penalty. For example, Marcian knows of *deportatio* and discusses its features at substantial length; however, as we saw in his discussion of locations in banishment, he leaves out *deportatio* entirely and says instead that *exilium* could be an interdiction from one place, an interdiction from many places, or being placed at—that is, *relegatio* to—an island.³⁸ By omitting *deportatio* from his taxonomy of *exilium*, Marcian implies that *deportatio* and *exilium* simply belonged to different categories. In like fashion, in his discussion of specific information, he states that a tutor in *exilium* could excuse himself from obligations if his sentence was a perpetual one.³⁹ Clearly, he envisions *exilium* being either temporary or permanent and devises contingencies accordingly. A jurist such as Paulus would never have made that distinction because his rendering of *exilium* regarded it as tantamount to *deportatio*, always a perpetual sentence. Likewise, Papinian refers both to temporary *exilium* and to perpetual *exilium*.⁴⁰ While perpetual *exilium* potentially could describe either *deportatio* or a severe form of *relegatio*, temporary *exilium* could only characterize *relegatio* (in its milder forms). By using the same word to refer to a broad range of banishments, even ones that could not have been *deportatio*, Papinian’s usage defies Paulus’s understanding of the term. Thus these two jurists do not adhere to the maximal definition of *exilium*. However, it is not apparent that they subscribe to the inclusive sense of the term either. Marcian and Papinian gesture at the possibility that in both cases *exilium* simply serves as a synonym for *relegatio*. For them, it describes a category that could be permanent or temporary, fixed or open in its location. In other words, it depicted a punishment identical to the boundaries of *relegatio*. It must be admitted that Marcian’s and Papinian’s language in no way requires that *exilium* and *relegatio* signify identical concepts. It is also true that they put *relegatio* and *exilium* into a seeming contrast, by which they may have intended the inclusive meaning of *exilium*. However, these contrasts can be explained equally well under an alternate possibility. Because the jurists attach oppositional modifiers (such as “temporary” and “permanent”) to each item, the actual point of comparison could well be the modifiers. In other words, the jurists may have invoked a distinction akin to that of the English speaker who says, “Whether one is in temporary banishment or permanent exile. . .” Indeed,

Marcian's explanation of *exilium* and location seems to use *relegatio* as the equivalent of *exilium*.⁴¹ Callistratus goes a step farther. Citing the emperor Hadrian, he indicates that temporary *relegatio* is followed by perpetual *relegatio*, then *relegatio* to an island, and finally *deportatio*. Importantly, he introduces that discussion by telling us that these forms are "the grades of punishment for exiles" (*In exulibus gradus poenarum*).⁴² However, later in this same section, he indicates that governors punish unreformable rabble-rousers with *exilium* or even capital punishment.⁴³ This jurist assumed that *deportatio* was a capital punishment, but that *relegatio* was not; therefore, his contrast of *exilium* and capital punishment must place *exilium* in opposition to *deportatio*, making it the equivalent of *relegatio* (in other words, his terminology forces the concepts into two categories: capital punishment/*deportatio* on one hand and non-capital/*exilium*/*relegatio* on the other). Thus, the jurists in total preserve two confirmed renderings of *exilium* as well as a potential third explanation which directly opposed one of the clearly attested definitions.

These, then, were the options prevalent in the second and third centuries. They were also the authoritative statements potentially available to officials in the later Empire. The very definitions create the possibility for magisterial misunderstanding. *Deportatio* had a more straightforward nature than *relegatio* did—it always required the worst option. This probably would have been easy to keep straight. On the other hand, *relegatio* left considerable room to the magistrate's discretion but also, at least in theory, fixed certain parts as not subject to adjustment. For this reason, many magistrates probably botched the subtleties of a *relegatio* sentence, thinking that they had it within their purview to strip the *relegatus* of his citizenship or rank. Similarly, Ulpian reveals that many judges believed that they had it in their power to confiscate the property of those sentenced to temporary *relegatio*. Ulpian believes that to be a false deduction and relates that imperial rescripts had criticized those judgments.⁴⁴ His distinction is a meticulous one: *relegatio* allowed a magistrate to make a judgment about a person's property only when that sentence was a temporary one. It is easy to understand how Roman magistrates and their staffs could have erred on this or on similar aspects of the penalty. Moreover, the boundaries of *exilium* were not clearly fixed by the jurists. Some of their discussion leaves uncertain its relationship to other expressions of banishment. Even those jurists who are precise in their usage are at variance with one another over this point.

Moreover, the jurists' opinions would have to wait until the 530s under the reign of Justinian to be officially collected.⁴⁵ That they were preserved throughout the later third, fourth, and fifth centuries indicates that they maintained authority throughout the intervening period. However, unlike the modern scholar who can simply open Justinian's Digest to any given topic, the mid-tier magistrate of the later Empire probably did not have anything close to this much convenience or coverage. He had assessors who

knew some of the jurists' remarks, but who likely worked with an uneven knowledge.⁴⁶ Finally, even in the best imaginable scenario—a magistrate's staff having all of the relevant jurisprudence at his disposal and caring about its contents enough to mine it carefully—the body of literature still leaves certain questions unanswered. We should not take the (relatively) tidy presentation now found in the Digest as the definitive state of affairs in the later Roman Empire, even if there were meaningful continuities. Alongside the manifold definitions hammered out by the jurists, there also persisted a measure of uncertainty and imperfection.

II CATEGORIES AND AMBIGUITIES

As we move from the Severan age into the later Empire, the nature of the evidence changes. Imperial laws call for various forms of banishment and occasionally mention other elements of the punishment. They do not offer programmatic statements on the nature of banishment or its permutations. In the laws enacted by emperors, the overriding concern was to clarify the punishments in a particular case or circumstance. Although their assumptions maintain basic continuity with the juristic opinions of the Principate, some of the concepts worked out by the jurists depend on a different understanding of Rome's place in the world. As the geopolitical terrain shifted, the meaning and consequence of certain elements acquired additional implications. Furthermore, the various laws bear the marks of many hands, some belonging to quaestors with scant legal training, and thus they suggest differing conceptions.

A reconstruction of *deportatio* can proceed securely. As we have seen, for the jurists, this term signified a type of banishment that was permanent, deprived its victim of property and Roman citizenship, probably fixed a location, and negated social rank. The locative dimension is fairly easy to assess. A host of legislation issued under Constantine specifies *deportatio* to an island for assorted culprits: women who sought a divorce, accomplices to counterfeiting, dishonest fiscal representatives, litigants who abused the justice system, and decurions who married slaves.⁴⁷ The legislation of later emperors does not display this same level of fondness for island *deportatio* and instead invokes the term without mention of a location.⁴⁸ Of course, *deportatio* to a non-island location could still be both fixed and unpleasant. In all events, both Constantine's and later emperors' tendencies are compatible with the jurists' definition, which did not require a *deportatus* to be island-bound.

Other facets of *deportatio* are more involved. On many of these, imperial laws seem less to alter the jurists' formulation as to uphold it by supplying guidance that was possibly unneeded. Concerning the duration of *deportatio*, certain laws in the later fourth and early fifth centuries indicated that they wished individuals to suffer it perpetually.⁴⁹ Of course,

deportatio, according to the jurists, was perpetual by definition. These laws probably include potentially unnecessary information because their drafters were willing to risk redundancy for the sake of clarity.⁵⁰ A quaestor or an imperial court preoccupied with unmistakable specificity could have stipulated points on which lower officials might or might not have needed clarification. Thus, certain laws contain information about the ramifications of *deportatio* that was not strictly necessary, but they recognize that not all magistrates affected by their instructions (present and future) would know that *deportatio* was automatically lifelong. Likewise, on the topic of confiscation of property, the imperial laws seem more redundant than contradictory. From the era of Constantine on through the end of our period, many examples of imperial legislation explicitly link *deportatio* to the confiscation of property.⁵¹ The reason for that marked emphasis may be that this factor, of all the possibilities in banishment, mattered most keenly for imperial courts. We can observe in the fourth and fifth centuries a general escalation in legislation against infractions that were punishable by penalties that included confiscation.⁵² By ramping up sentences of capital punishment and *deportatio*, the imperial fisc increased because a portion of the condemned's property belonged to the treasury. Thus emperors had good reason to settle on a decision of deportation in certain cases. However, bad press might also accrue from an immoderate use of *deportatio* (or other sentences) to enhance the imperial endowment.⁵³ As a sort of balance, laws devised various schemes to split this sum with the relatives of the condemned. A law promulgated by Theodosius I attempted to bring order to inconsistency by creating a taxonomy of how much wealth should be confiscated for different types of *deportati* (those with children, with grandchildren, with parents, etc.).⁵⁴ The law's nuances are intricate, perhaps excessively so. The net result was that fisc claimed the largest share, with smaller fractions going to the condemned person and his relatives. It confirms the basic fact that *deportatio* continued to involve confiscation, as it did in the jurists' time.

The issue of civic status is more complex still. There is enough evidence in the imperial laws to suggest that *deportatio* continued to remove a person's Roman citizenship. Laws touch upon this issue obliquely, for instance by addressing specific citizen rights. A Constantinian law in 321 exhibits the degree of confusion on such topics at the time. Constantine addressed the status of a restored *deportatus* and declared that Papinian's opinion should be normative, whereas the commentaries on Papinian by Ulpian and Paulus should be removed.⁵⁵ Evidently, juristic disorder had led to bewilderment. Constantine's attempt to impose uniformity does not explicitly address Roman citizenship, but it does state that, just as *deportatio* stripped away a father's right of *patria potestas*, so too should his recall restore it.⁵⁶ In Roman law, *patria potestas* was the familial power held by the male head of the household and a quality understood to be uniquely Roman.⁵⁷ In other words, holding *patria potestas* designated a person as not just the

highest ranking male in his family, but also as a citizen of Rome. Constantine presumed that deportation would negate it and that restoration would return it. This is fairly strong evidence, in what was probably an influential law, for *deportatio*'s citizenship-negating effect. Weaker support comes from a law issued by the western court of Honorius in the early fifth century, which punished those who had obtained permission for marriages that should not have been approved with *deportatio* as well as other penalties, including the confiscation of their possessions, the annulment of their marriage, and the loss of the ability to produce legal heirs.⁵⁸ In that instance, the civic disabilities seem to be connected to the original infraction rather than consequences of *deportatio*, but they do remain affiliated. Finally, from the same period but in the east, Theodosius II legislated that accomplices of those who diverted the Nile were to be deported to the Oasis, with no possibility of recovering their citizenship, property, or *dignitas*.⁵⁹ The law presumes that *deportatio* would have deprived its victims of these three things.

It appears all but certain that *deportatio* normally terminated a person's Roman citizenship in the later Empire, just as it had in the early Empire. However, the world around the punishment—and citizenship in particular—had changed over that span of time. In the Principate, when *deportatio* was first established, the *deportatus* could potentially gain citizenship in some other polity in the Mediterranean world, but for those whose ancestry lay in the city of Rome doing so would amount to a dramatic change of identity. Still, it might have been possible to establish oneself at some other city and with some other community. But what did a loss of Roman citizenship mean to someone living in the later Empire? Namely, under what legal system would he have lived and how would he have been regarded by representatives of Roman law? The answers to these questions are elusive. Citizenship conferred different things at various moments during Rome's history.⁶⁰ It is also true that the loss or absence of Roman citizenship entailed different implications at different times, meaning that, by virtue of holding static, this penalty actually involved an evolution in terms of its consequences. After 212 (when the emperor Caracalla issued his *constitutio Antoniniana*) nearly all free persons living under Roman rule gained Roman citizenship, though there persisted groups of *peregrini* (foreigners), whose legal situation resembled that of the *deportati*.⁶¹ The legal literature from the later Roman Empire does little to explain their legal standing. Their existence seems plain enough; how they lived does not.⁶² From what we can tell, *deportati* would have existed in this sphere, whatever that meant for them. Certain aspects can be deduced. It would have been much harder to acquire citizenship in a neighboring city because Roman law and citizenship had largely (but not entirely) supplanted local alternatives. For the later Roman exile, being deported meant more than moving away from Rome and facing the prospect of seeking membership in a different community. On the level of identity, it meant existing in Roman

territory as a stranger to it; it meant living as an individual without a community or proper place. Beyond seeking their recall and the restoration of their rights, many probably resigned themselves to an existence in limbo and tried to keep a low profile so that magistrates would have no reason to take notice of them. In total, the one certain thing that we can deduce about the legal standing of the *deportati* is that it would have been uncertain and precarious. This means that negation of citizenship made the ramifications of *deportatio* graver in the later Roman Empire than they had been in the earlier Empire.

Finally, there are sufficient hints in the laws to justify the suspicion that *deportatio* continued to negate one's social rank. Constantine's 321 law pronouncing judgment on the *patria potestas* of an individual pardoned from *deportatio* also indicates that restoration should entail "the recuperation of goods and of *dignitas*, in a word, of everything lost."⁶³ As we saw in the law of Theodosius II punishing diverters of the Nile, rank (*dignitas*) was one of the elements presumed to be wiped away by *deportatio*.⁶⁴ In both cases, the laws' drafters expect that *deportati* had endured the loss of *dignitas*.

Despite its slight coverage in imperial laws, the issue of social rank must have mattered tremendously to those banished in the later Empire. Assuming that ordinary cases of *deportatio*, now lost to us, required the forfeiture of rank, then this too signifies a dimension that acquired extra significance from the evolving social circumstance. The term *dignitas* in the later period did refer frequently to the high offices held by those of illustrious rank, but in the legal literature it still refers to one's social status itself.⁶⁵ The later Roman world lived with a crucial social line dividing the *honestiores* (more honorable individuals) from the *humiliores* (the more humble ones, or, literally, those closer to the ground).⁶⁶ *Honestiores* were immune from judicial torture and in general enjoyed more lenient sentences. For one ejected from the higher social echelons, any contact with Roman law was likely to be menacing or arduous. Men and women of renown enjoyed a privileged position in the workings of Roman justice. Ordinary individuals might be drawn into the court system, but they often found the deck stacked against them in the form of more heinous punishments and the liability to torture.⁶⁷ No longer able to avail themselves of the perks within the Roman legal system, the deported would have depended on local systems to solve their problems (if any arose), and would not have enjoyed the luxurious position of the elite if they did find themselves taken before a Roman magistrate.

The scraps relating to *relegatio* are more modest. Certainly, this sentence continued throughout the later Empire, but legislation typically says little about how their framers understood its meaning.⁶⁸ At least in many cases, the laws say nothing that contradicts the jurists. Some of their omissions are not surprising. For example, we learn very little about versions of *relegatio* that did not confiscate the victim's property. No doubt *relegatio* without confiscation occurred many times over the later Empire. It was

unlikely to draw any legal speculation because there was no need for any—not having your property taken away in the fifth century was probably about the same as not having it taken away in the second century. Constantine, true to form, had a predilection for *relegatio* sentences that directed victims to an island.⁶⁹ Other laws envision *relegatio* in locations unrelated to islands.⁷⁰ A law of Majorian offers some of the most serviceable evidence, in part because it describes a situation in which things went wrong. Issued in the West in 459, it reveals the disintegration of Roman rule as well as the incidence of banishment. The constitution replies to a message sent by Rogatianus, the governor of Suburbicarian Tuscany, about a specific case. Rogatianus relates that he had originally tried an *adulterium* case (roughly, “adultery”) and sentenced a certain Ambrosius with temporary *relegatio* to a specific spot.⁷¹ However, Ambrosius fled from his designated site before the term of his punishment was complete. Majorian’s reply upgrades the sentence from *relegatio* to one of *deportatio* and also confiscates the culprit’s property.⁷² Evidently, Rogatianus’s terms had left it intact, revealing that the initial sentence was temporary relegation with a fixed location and the retention of property. Though the imperial apparatus was crumbling, Majorian’s law reveals that the jurists’ broad understanding of *relegatio* remained in place.⁷³

The most vexing issues lie with the term *exilium*. As we saw with the jurists, the word held two or perhaps even three meanings: a maximal usage that identified it with *deportatio*, an inclusive usage that viewed it as the broader category containing *relegatio* and *deportatio*, and a minimal usage that seemed to identify *exilium* with *relegatio*. The term *exilium* appears commonly in the imperial constitutions and usually without any additional hints about which of the potential meanings the laws’ authors had in mind. Thus in most cases, we cannot know with certainty which meaning the term carried. In other cases, it is clear what a law intended; however, those intentions retain some of *exilium*’s long-standing ambiguity.

First of all, the maximal usage, found for instance in the jurist Paulus, drops out. I am not aware of any law from the later Empire that unmistakably uses *exilium* as the equivalent of *deportatio*.⁷⁴ Conversely, much of the legislation offers an inclusive understanding of *exilium*. Most notably, some laws sentence miscreants to “the *exilium* of *deportatio*” or “the *exilium* of perpetual *deportatio*” (*exilio [perpetuae] deportationis*).⁷⁵ By phrasing it thus, the laws’ drafters reveal that they can imagine various types of *exilium*, of which *deportatio* is but one. Another law, issued under Theodosius II, might suggest this view as well. It releases those people who, though sentenced to *exilium*, have been languishing in prison. Importantly, the law liberates those whose condition has destined them for “different sorts of *exilium*” (*diversis exiliis*).⁷⁶ Although certain ambiguities remain in this law, its phrase *diversis exiliis* suggests that the drafters envisioned various forms of *exilium*.⁷⁷ The law of Majorian that replaced *relegatio* with *deportatio* (mentioned above) contains language that could

permit either an inclusive or a minimal interpretation. When Rogatianus originally tried the adultery case, he sentenced Ambrosius with temporary *relegatio* to a specific spot without the confiscation of property. However, Rogatianus's report to Majorian relates that Ambrosius, "made an escape from the place of *exilium*" (*locum . . . exsilii defugisse*).⁷⁸ This phrasing indicates that Ambrosius, as a *relegatus*, had a specific place of *exilium*. It must understand *exilium* either as the synonym for *relegatio* or as its taxonomic group.

While those laws show that their drafters did not think of *deportatio* and *exilium* as identical, others go farther by using *exilium* interchangeably with *relegatio* (that is, by employing the minimal sense). To judge from the laws of the fourth and fifth centuries, that sense became more common. At times, the contrast between *exilium* and *deportatio* stands forth palpably. For one, an Eastertide law of Theodosius I extended mercy to various criminals. Enumerating those subject to its clemency, it states, "we relieve them from shackles; we release them from *exilium*; we withdraw them from the mines; we liberate them from *deportatio*."⁷⁹ By specifying alternative sentences in a list, Theodosius's law assumes that neither *exilium* nor *deportatio* was a category that subsumed the other. At other times, the laws offer a contrast between *exilium* and *deportatio* which, though implicit, makes the easiest sense when *exilium* is taken as the equivalent to *relegatio*. As an example, the western court of Honorius sought to regulate tax collecting measures by punishing the officials, support staff, and decurions who violated its rules. The relevant law calls for fines for the governor, *deportatio* for his staff, and temporary *exilium* for decurions.⁸⁰ Here too, *deportatio* and temporary *exilium* might be listed separately as a function of duration, but it is simpler to take them as different categories. Again, a pair of laws, these issued by the court of Theodosius II in an attempt to repress sectarian worship, when taken together implies a correlation of *relegatio* and *exilium*. The first targets Montanist worship and promises *deportatio* for the clergy of these groups, property confiscation for landowners who permitted their meeting, and *exilium* for procurators who allowed the meetings to occur without the landowner's knowledge.⁸¹ By itself, the law speaks of *deportatio* and *exilium* as distinct sentences, which might qualify as either an inclusive or a minimal usage. However, this same court issued a similar law weeks later which may illuminate its usage in the anti-Montanist law. When the court legislated again, now to suppress Eunomian services, it followed the same procedure, but this time threatening Eunomian clerics with *deportatio* and those who submit to their baptism with *relegatio*.⁸² In other words, in both laws the authorities demand *deportatio* for clerical leaders and *exilium* (in one case) and *relegatio* (in the other) for their followers. It is striking that these two laws come from the tenure of a known, legally competent quaestor, Eustathius junior.⁸³ Evidently, Eustathius was satisfied contrasting *deportatio* with either *relegatio* or *exilium*; the latter two terms must have operated similarly in his lexicon.

Given that *exilium* in imperial legislation could mean subtly different things—either a catch-all category or a surrogate for *relegatio*—it raises the question of how officers and subjects would have understood a law that referred to *exilium* but did not clarify its meaning. How, for instance, did the magistrate Menander understand the imperial instructions which bade him to sentence workmen who produced enormous vehicles, if slaves, to the mines and, if free, to “the punishment of *exilium*” (*exilii poenam*)?⁸⁴ Did this mean to Menander that he should condemn them to *relegatio*? Or did it mean that he could use his discretion and settle upon a sentence of either *deportatio* or *relegatio*? Perhaps Menander did not agonize over the fate of humble craftsmen who managed to offend the imperial will. And perhaps, to the laborers themselves, either sentence would have been catastrophic. Nevertheless, the ambiguity highlights a predicament that confronts the Roman magistrate and the modern historian alike—the word *exilium* in the later Roman Empire can denote different things and, on numerous occasions, does not contain any clues to its specific meaning. Most likely, magistrates suffered through a degree of confusion, not knowing precisely what any given constitution meant exactly. The historian must reckon with the fact that we often cannot know with absolute certainty which legal option (or options) any given use of the term implied. Usages with minor differences persisted through the period. Yet this ambiguity itself is historically significant. We should not assume that magistrates and emperors understood each other perfectly when legislations discussed banishment. The former balanced their understanding of the latter’s instructions with immediate concerns and local pressures. Often, parts of imperial mandates probably got lost in translation.

Little wonder that extra-legal sources offer meager support. If jurists and imperial courts could stumble over legal particulars, all the more so could non-specialists misconstrue or ignore the actual sentence involved. Of course, it is tempting to conjecture about the legal conditions that magistrates should have used from what we do know about historical cases. It can be very hazardous to extrapolate a legal sentence from non-legal information, however. Even in situations that would naturally suggest a particular sentence, authorities may have settled on something different. A rare law from the Theodosian Code addressing a particular individual reveals how surprising a sentence could have been. At the end of the fourth century, the grand chamberlain and eunuch Eutropius had fallen from favor.⁸⁵ Long the presence behind Arcadius’s throne in Constantinople, Eutropius became the *bête noire* of the powerful Gothic general, Gainas. Gainas held the capitol virtually captive until the emperor did away with Eutropius, so his punishment needed to be a show of severity. Moved by the supplications of the bishop John Chrysostom, the court confiscated his funds, stripped him of his honors, annulled his acts, pronounced *damnatio memoriae* upon his deeds and images, and banished him to Cyprus under guard.⁸⁶ If ever there was a time for *deportatio*, this was it. In fact, the imperial judgment

specifies *relegatio* instead. Had the scribes working under Theodosius II not included this verdict in the Code, historians might well assume that because of all the other severities in Eutropius's sentence, his banishment was one of *deportatio*. The judgment also stands as a warning against unsubstantiated speculation about legal pronouncements in other instances.

In many other cases, we know enough about the conditions of some particular banishment to sense its general character, but not enough to pin down its legal basis. Most often, late antique authors use vague terms or potentially precise ones in colloquial ways, such that they do not offer insight into the legal underpinnings. In particular, Latin authors invoke *exilium* and Greek authors φυγή to describe any number of conditions. The general pattern gives the impression that the terms carried a loose definition, a colloquial equivalent of the “inclusive” usage that took *exilium* as an acceptable description of any forced expulsion. Even in the event that a source offers additional information about the qualities of an individual's banishment, only a few traits constitute a definitive marker. As *relegatio* was flexible on many points, most factors could apply either to it or *deportatio*. An intentionally temporary sentence or one that preserved the exile's citizenship could only be *relegatio*, but rarely do the sources convey this type of information. For instance, Ammianus at one point in his history indicates that Memmius Vitrasius Orfitus “was released from *exilium*, the loss of his *patrimonium* was restored, and he was sent back to his home.”⁸⁷ Clearly, Orfitus's *exilium* involved a loss of *patrimonium* (inheritance), though we only learn of it by virtue of its being restored to him later. From evidence such as this, we cannot discern much more than the obvious—the sentence could have been *deportatio* or *relegatio* with confiscation.

Many of the references in the extant literature are similarly disobliging. However, some accounts preserve additional information that points in one direction or another. The horoscope of Firmicus Maternus describes the vicissitudes of an anonymous “native” and his father, both of whom experienced *exilium* under Constantine.⁸⁸ Maternus relates that the native committed and was accused of *adulterium*, which Roman law had long punished with *relegatio*.⁸⁹ The horoscope mentions no specific charges leveled against the father. If Constantine elected to punish *adulterium* in conventional ways, then the native would have been sentenced to *relegatio*. However, two caveats bear repeating. First, we cannot be certain what actual penalty afflicted the native. Constantine's attitude toward sexual morality defies easy categorization, and he may not have felt bound by tradition.⁹⁰ Second, Maternus himself either did not know what exact sentence befell the native, or else he did not care. Maternus describes the fate of both father and son as *exilium*. He probably envisioned the concept as containing a wide application, so much so that any act of ejection could fall under its heading. We can deduce with modest confidence that the native experienced *relegatio*; no real conclusions can be drawn about his father's banishment.

On unusual occasions, an extra-legal source will oblige with an account of banishment that employs credibly legal diction.⁹¹ For instance, the Christian apologist Lactantius, early fourth century, discusses the fate of Galeria Valeria, the daughter of Diocletian. According to Lactantius, Valeria first married the Caesar of the eastern Empire, Galerius. When Galerius died, his successor Maximinus Daia proposed marriage, which Valeria declined. Lactantius indicates that Daia then “relegated her to *exilium*, not to a fixed place, but abusively drove her headlong from this place and that,” and that later the Augusta had been “relegated to some desolate desert of Syria.”⁹² There are some peculiarities in this presentation, namely that Valeria was not sent to a fixed place, yet was relegated to a Syrian desert. While Lactantius’s account may contain some errors or even intentional distortions, his banishment terms have basic credibility. Lactantius believes that Valeria had been sentenced to *exilium*, which in this case probably signifies the general condition of banishment (a loose use of the inclusive sense), whatever the form, *relegatio*, indicating the legal sentence that Daia employed.

Sulpicius Severus, a Christian historian, offers one of the best possibilities to assess legal sentences in actual practice. He and Jerome (both early fifth century) indicate that certain western bishops became *relegati* in the middle of the fourth century under the emperor Constantius. Jerome states that Lucifer of Cagliari, Eusebius of Vercelli, and Hilary of Poitiers were each “relegated” (*relegatus*) for their support of Nicene Christianity and its proponent, Athanasius.⁹³ Jerome’s might be a non-technical use of the term, but Severus also claims that Eusebius of Vercelli and Lucifer of Cagliari were relegated (*relegati*) at the Council of Milan in 355 (though he states that Hilary, along with Liberius of Rome, suffered *exilium*).⁹⁴ It is not clear whether Severus employs *exilium* (and its related forms) in the inclusive or minimal sense.⁹⁵ His use of *relegatio* appears more intentional and suggests, in tandem with Jerome, that at least Eusebius and Lucifer had official sentences of *relegatio* placed on them.⁹⁶

Severus also makes sharp distinctions in his discussion of the fates suffered by the ascetic Christian Priscillian and his allies under the usurper Magnus Maximus (383–88). He informs us that while Priscillian, the clerics Felicissimus and Armenius, and the poet Latronianus and widow Euchrotia received death sentences, Tertullus, Potamius, and Joannes became *relegati*.⁹⁷ By way of contrast, he states that at the same time, the bishop Instantius, having been condemned by bishops, “was deported to the island of Sylina” (*in Sylinancim insulam . . . deportatus*).⁹⁸ This would seem to be an informed and intentional contrast between *relegatio* and *deportatio*; conversely, Severus next states that Tiberianus (a lay supporter of Priscillian) had his possessions taken away and “was placed on the island of Sylina” (*in Sylinancim insulam datus*).⁹⁹ This shows that Severus was not always concerned to use an authentic legal term. On balance, it seems probable that he used *deportatus* precisely in Instantius’s case and varied his diction for stylistic reasons when it came to Tiberianus’s. Because Magnus Maximus’s

decision to sentence Priscillian and other clergy to death departed from later Roman convention, it is unwise to take this one incident as normative for the period.¹⁰⁰ However, the fact that extra-legal sources ordinarily offer nothing so definitive means that Severus's history offers some of the most promising material to gauge the use of legal institutions in actual practice. This work confirms the sense from the Code—that emperors condemned laymen as well as bishops to *relegatio* in most cases and to *deportatio* when the victim or the occasion called for additional severity.

On the whole, sources from this period give very little discussion to the legal categories operative in any particular instance of banishment. This vagueness in the sources leads to certain conclusions. First, the ambiguity in the extra-legal materials suggests their limited concern for legal precision in this area (or their limited ability to be legally precise). Quite likely, the authorities did issue a specific legal verdict, but that language has not come down to us. In the sources that describe the lot of the banished, authors' interests and agendas lay elsewhere. Second, the historian of later Roman banishment must exercise caution when hypothesizing about which legal condition applied to any given illustration of banishment. For nearly every instance known to us from the historical record, it is impossible to know with certainty what legal status was involved. In rare cases, a source will oblige with a direct statement about an exilic sentence. Often, though, we can only hazard a guess about which form of banishment would have been used.

III EXPULSION BY *COERCITIO*

The foregoing has considered banishment when it was the result of criminal proceedings, imperial pronouncements, or, at the very least, governmental action taken by Christians against divergent expressions of Christianity. Roman law and practice also recognized the right of certain magistrates, in the name of domestic peace, to bar a person or group from a particular city or town. This prerogative constituted one component, along with prison and fines, of *coercitio*—a Roman magistrate's prerogative to quash unruly elements in order to maintain the rule of law.¹⁰¹ Even though expressions of *coercitio* were not the outcome of a criminal trial, they were still felt to be an extension of law, not its suspension (so long as its exercise did not lead to abuse).¹⁰²

The sources give the impression that ejections of this type may have been practiced more commonly against the lower orders. Gaining a clear grasp of banishment at that level of society poses difficulties, as sources from the ancient and late antique worlds attend more closely to the elite, notable levels of society. We are often left partially in the dark when it comes to affairs among the more humble classes. All the same, one suspects that over the course of the imperial period, many of them must have been expelled from their cities, despite the fact that we hear very little of it in the extant

sources.¹⁰³ The magistrates of cities and regions unmistakably encountered numerous scenarios in which unruly behavior from non-notable orders disrupted civic tranquility. The jurist Callistratus records that provincial governors should punish rabble-rousers, “who generally call themselves ‘hooligans’ [*iuvenes*, literally, “youngsters”], first with a beating and a prohibition from public games and then, if they still did not desist, with *exilium*.”¹⁰⁴ Callistratus adhered to the inclusive use of *exilium*, and on this point probably had in mind one of its minor expressions. In other words, he may mean that governors were to round up and escort out the unrepentant *iuvenes* rather than to try them formally and issue a particular sentence. Of course, we cannot determine with certainty whether lower-class citizens were banished as a result of criminal procedure or if they were just herded out of their usual haunts by virtue of a magistrate’s assumed power to do so. On average, expulsion by *coercitio* probably held advantages for magistrates; it certainly seems unlikely that throngs would have been tried or that sentences would have been pronounced against each member. We can only surmise how a magistrate would have ensured compliance for such a measure, presumably by inflicting more dire punishments if the ejected were found back in the city again.¹⁰⁵ The Christian apologist Tertullian reveals that in North Africa soldiers kept a list of suspect individuals including pickpockets, pimps, and Christians.¹⁰⁶ However bizarre that list seems now, it indicated a roll of ne’er-do-wells in the early third century. It may be the case that magistrates or policing forces kept a rudimentary list of individuals who had been shown out.¹⁰⁷ Indeed, it is hard to see how else, short of resorting to branding, officials could have enforced even loose compliance.

For the later Empire, we can discern that individuals and groups were expelled at different times from major cities and in ways that make likely candidates for the use of *coercitio*. A smattering of imperial legislation reflects the urge to ban low-ranking people from a city or area. Occasionally, such a constitution makes it sound as if the emperors wished urban expulsion to result from criminal proceedings, but mostly these laws read like a body of directions referring to an urban magistrate’s patrolling capacities under the rubric of *coercitio*.¹⁰⁸ The level of infraction in these examples appears to be mild. They constituted an offence worthy of punishment, but not one that necessitated a major government operation. In 382, Theodosius I attempted to regulate the forms of clothing acceptable in Constantinople, for example by prohibiting military wear. Should any senator disregard the pronouncement, he was to lose his senatorial rank. However, magisterial attendants (*officiales*) and slaves found themselves liable to *exilium*.¹⁰⁹ The law does not specify the duration or destination of exile, but presumably the imperial authorities did not wish to commit much manpower to the task of relocating slaves to a difficult or far distant location. The purpose of the penalty, in this case, may have been to less to retaliate against the slave by sending him somewhere unpleasant and more to punish the slave’s owner by depriving him or her of the slave. As such,

merely escorting the slave out of the city may have sufficed. Legislation issued under Honorius attempted to expunge quite a number of offending behaviors and aspects from Rome. Those who wore clothing in the style of barbarians or Orientals faced expulsion from the city; squatters who took up residence in a particular region of Rome, the Campus Martius, were to undergo permanent exile and to have whatever wealth they possessed confiscated.¹¹⁰ Even though it seems unlikely that those forced to live in a hut (a *casa* or a *tugurium*) harbored tremendous resources, they were nonetheless subject to expropriation and removal.

Minor figures or those of inferior social status seem to have been the usual targets of magisterial *coercitio*. Nevertheless, there also exist examples of small-scale ejection for more illustrious members of society. A law of Honorius's brother, Arcadius, instructed the master of offices that anyone who permitted a heretic to join the imperial service should, along with that heretic, lose his imperial post and "be kept at a distance [*arceri*] beyond this city's bulwarks."¹¹¹ In similar fashion, a 425 law in the name of Theodosius II ruled against unauthorized teachers. It stipulated that any of those who persisted in that pursuit, "not only shall submit to the mark of *infamia* that he deserves, but also he should know that he is to be expelled [*pellendum*] from the very city where he is illicitly occupied."¹¹² The inclusion of "infamy" is central here. *Infamia* functioned by stripping away a person's "civil honor"; it would have had no purchase on the humbler classes.¹¹³ These hints appear to justify the conclusion that some notable persons could find themselves liable to urban expulsions, likely falling under the heading of *coercitio*.

Alongside this body of legislation, scattered references in extra-legal materials announce the expulsion of individuals at various grades on the Roman social hierarchy. According to Ammianus Marcellinus, *peregrini* and those studying the liberal arts were forced out of Rome during a food shortage in 383 or 384. Whether or not Ammianus numbered among them, the event itself is beyond doubt.¹¹⁴ At nearly the same time but on the other side of the Empire, a man named Bargus managed to get himself driven out of two cities. According to Zosimus (a Greek historian of the late fifth to early sixth century and the source for this episode), because of "certain foul deeds" (τισιν . . . ἀποπήμασιν), Bargus "went into banishment [or 'flight'] from Laodicea to Sardis" (ἀπὸ τῆς Λαοδικείας εἰς τὰς Σάρδεις ἧλθε φυγᾶς).¹¹⁵ What is more, when Bargus was granted a military command and taken to the capitol, this proved problematic because previously he had been, "because of certain villainies, prohibited from passing time in Constantinople" (διὰ τινὰ πονηρέματα τῆς ἐν Κωνσταντινουπόλει διατριζῆς ἀποκεκλεισμένος).¹¹⁶ Although Zosimus's account leaves much unresolved, it does reveal that at least Constantinople, and perhaps also Laodicea, had prohibited Bargus's presence.¹¹⁷ An expulsion for base acts would likely have been one of *coercitio*.

Finally, religious deviation also had a tendency to elicit to the aberrant group's being forced out of its town. Although religion and banishment

forms the topic of the next chapter, it is worth noting in passing that communities' dwellings or just their meetings could be barred from a city.

Although the extant evidence does not lavish attention on expulsions of this variety, their existence offers a meaningful contribution to the reconstruction of banishment. It shows the minimum level of ejection practiced by Roman authorities. Also, these laws and historical episodes remind us that banishment was not the preserve of the elites. In cursory ways, it could have a sizable effect on the lives of those who appear little in the evidence but comprised a major cross-section of later Roman society.

IV COMMONALITIES

Banishment was not one simple, monolithic phenomenon, particularly when considered over the experiences of many individuals in the period under review. It was in fact a paradoxical amalgam of institutions. It terminated some social connections while helping to reestablish others. It applied discomfort sufficient to cause exiles to seek its negation; yet—precisely because it could be so thoroughly canceled—banishment could signify magisterial moderation. Thus, an unusual blend of seeming contradictions characterized the function and nature of banishment.

Banishment, as with many Roman punishments, carried an elaborate mix of chastisement, humiliation, propaganda, and spectacle.¹¹⁸ But through it all, banishment was primarily a punishment that used relocation to cut social ties. Whether the exile went to an island or merely vacated his city, the elemental basis of banishment was forced movement from a more desirable spot to a less desirable one. The fact of dislocation frequently meant that the normal avenues for comfort and support could not operate. By depriving a person of the social necessities in the Roman Empire—such as patrons or clients, communication with allies, and a public profile—it made its targets more vulnerable to life's vicissitudes and deprived them of their normal means of redress should unfortunate events occur. In any of its permutations, banishment sought to dislodge an offending party from his political environment. Physical distance expressed a cultural implication. The exile could not exist in his native area but instead was condemned to exist in unfamiliar territory, at least for a period. While not cast out of Roman society altogether, an exile carried the stigma of having done something grave enough to warrant separation from his ordinary surroundings. Although later Roman society contained much regional diversity, it was a world greatly determined by allegiances, connections, and patronage.¹¹⁹ To be ripped away from one's social grid could be a traumatic, disorienting experience.

If it is true that Roman banishment endeavored to sever certain social links, it is also the case that it sought to reinforce others. Because banishment worked by moving individuals in and out of particular areas, it held particular significance for the exile's home community; by branding the banished

as inimical to their collective interests, it expressed solidarity between government officials and the body politic. This impetus was especially acute in instances when the exile's activities threatened (or were perceived to threaten) the public order. Applied to a key person or two, this punishment might produce restorative effects on the affected zone. To rulers of the later Roman Empire, pacifying an unruly area was a perennial challenge.¹²⁰ Censuring an entire population was impractical or impossible. Any chastisement of a few intended to reveal an interest in the harmonious operation in the greater society. Banishment in particular sought to unify the punishing magistrate and the area governed against the one banished. Like all punishments or repressive measures, banishment strove to develop communal cohesion by indicating the governing body's concern for those ruled. But the particular nature of banishment meant that this unspoken objective was made explicit by the movement of the offender away from the community offended. Perhaps our most evocative account of such an occurrence takes place in the history of Ammianus Marcellinus. According to Ammianus, the urban prefect Leontius quelled multiple riots in Rome by combining his indomitable style with the technique of banishment. Ammianus records that when a popular charioteer, Philoromus, was arrested, the populace reacted by revolting. Leontius, however, ordered some offenders to be seized, tortured, and sent to an island.¹²¹ Not long after, a new commotion arose over the rumor of a wine shortage. This time, Leontius himself (Ammianus indicates) dashed into the fray, seizing the ringleader Peter Valvomeres and subjecting him to corporal punishment. Leontius concluded the affair by banishing Peter to Picenum.¹²² When Leontius beat and expelled Peter, he acted on behalf of Rome's citizenry, despite the fact that the agitated crowd was the nemesis which he had to overcome.¹²³ To the thinkers of the period, a spatial punishment fit the crime. Many later Romans came to understand banishment as the suitable penalty for public disturbance. It was a universal standard to which Ambrose of Milan could appeal in 386 during an uproar over basilica rights. His theological adversaries the "Arians" (that is, those who rejected the theological conclusions reached at the Council of Nicaea) in the days before Easter had demanded that Ambrose (a proponent of that council) make one of the city's churches available for their services.¹²⁴ When he refused, angry officials urged Ambrose to hand over the basilica peacefully and soothe his congregation.¹²⁵ He replied that only God could calm an agitated crowd and that, if they really considered him the cause of the disturbance, then they ought to banish him.¹²⁶ Tactically, his dare rested on the knowledge that his adversaries were incapable of evicting him;¹²⁷ in principle, it rested on the common knowledge that banishment upheld the peace. Removing one party reinforced a boundary, implicit or explicit, which surrounded those who remained. They, the punishment averred, stood together as law-abiding subjects of Rome.

Just as banishment could ally magistrates with the populace in opposition to a criminal or undesirable character, so too could it link the imperial regime with the citizenry in opposition to a derelict magistrate. Banishment of this

sort still expressed an interest in social cohesion. Imperial laws promising stern retribution for delinquent officials represented a form of propaganda designed to highlight an emperor's deep-seated concern for the well-being of his subjects.¹²⁸ Exile appears prominently in imperial berating of the officers and bureaucrats who failed to execute their obligations.¹²⁹ To take but one example, a law from Valens directed to Sextus Petronius Probus, then praetorian prefect of Illyricum, attempted to eliminate extortion committed by high-ranking officials working under the provincial governors. Should any of these individuals force the locals to perform compulsory labor or commandeer their oxen, this official was to suffer confiscation of all property and perpetual *exilium*.¹³⁰ Such a law does much more than warn magistrates against graft. It expresses cohesion between rulers and subjects. The local officials targeted by a measure such as this would have lived in that region (at least before being exiled) and ostensibly represented its citizens. It would take a substantial gesture, such as banishment, to sustain the implication that it was the distant imperial court, not the regional official, who upheld the community's interest. If the penalties imagined by the law ever materialized, then its rhetoric would have been supported by the visible consequence of exile. Banishment thus offered the opportunity for a conspicuous display. While seizing the fortunes of these exiles certainly had its own advantages, a monetary penalty offered little in the way of spectacle. Only a few important imperial ministers might notice a fine paid to the imperial fisc, but anyone could witness a magistrate led off into banishment.

Finally, banishment could fashion an unusual bind between the person banished and the authority that condemned him. It frequently figured in a larger context between the two parties, even if conducted at a distant remove. When interests came into conflict, a protocol went into effect regulating subsequent actions. In the abstract, the emperor (or other magistrate) specified his wishes at the critical juncture in an effort to curb the other's undesired behavior. The official pronouncement made, the offender faced a decision: either persist in his ways and risk banishment, or comply with instructions and forgo his earlier behavior. The choice amounted to the decision to engage in open resistance to the magistrate's will or to submit to it.

For instance, a law of Constantine's illustrates the initial stages of the bind that emperors hoped to use in order to exact compliance from subordinates. Constantine branded a trustee who authorized a trust drawn up in secret an "enemy" (*inimicus*) of both the imperial fisc and the deceased's wife. If the trustee did not come forward and publicize the trust, then he would incur *deportatio*.¹³¹ In other words, Constantine gave a trustee the decision to violate the intention of the (illegal) trust or to become the emperor's foe. The first option would require the trustee to breach his promises with the deceased but would align him with the imperial will; the second would maintain loyalty with the dead and entail the risk of deportation. A complicated law issued by Marcian, addressing the issue of harboring robbers, imagines a complex procedure involving potential resistors and

governmental authorities.¹³² The law specifies several steps. First, if robbers attempted to hide themselves on someone else's land, the landowner or, in his absence, his agent would have an obligation to deliver these criminals to the authorities. If the landowner or agent failed to do so, then the provincial governor ought to notify them of this duty. Should the landowner or agent still hold out, the governor would be then required to arrest the robbers, borrowing personnel from the military officials in the area if necessary. This law expresses another case of law and order breaking down in the fifth-century West, where banishment arises as part of the government's attempt to diminish civil chaos. Importantly, the law concentrates less on the penalties for the robbers themselves than on the punishments which the landowner or his agent would incur for their reticence in producing the robbers. The law indicates that, if the landowner himself had hidden the criminals, then the property on which they took refuge should be confiscated; if the landowner's agent was responsible, then he should incur a punishment of perpetual *exilium*. Again, the penalties would not have come about without a substantial prelude. Rather, the imperial enactment intends to put the landowner or agent on the horns of a dilemma: either hand over the fugitives or face confiscation and exile.

Because of this tendency to impose one party's agenda upon another's, banishment was especially apt in laying bare the power differential between disputants. The process of compelling someone else to move amounted to a physical articulation of social standing. It was no accident that when the Christian rhetor John Chrysostom wished to argue the supremacy of the martyr Babylas over the pagan god Apollo, he employed the language of banishment. For Chrysostom, the question was whether Apollo had willingly departed from his sanctuary in Daphne or the remains of the martyr had driven him from there. According to his argument, Babylas banished Apollo, and this event demonstrated which of the two was dominant. Chiding pagans not to believe that Apollo left the area on his own accord, he asserted:

You should therefore no longer continue to deceive yourselves, claiming that Apollo, because he was irritated at the lack of sacrifices and complaining of the neglect of his cult, removed himself of his own free will. It was to end such deception that the martyr . . . banished [ἀπὸ λᾶσεν] him from this place . . . Apollo was compelled to leave Daphne, under the pressure of a force mightier than his own.¹³³

Chrysostom's reasoning depends on the link assumed between involuntary departure and inferior status. In the standard framework, to depart into banishment was to be humbled; to eject was to demonstrate greater power. Such a tautology came naturally to thinkers of the later Roman Empire. The banishment phenomenon had trained them to see challenges to and assertions of authority in the steady ejection of their peers.¹³⁴

Many forms of punishment in Roman antiquity, however, sought to exhibit one person's inferiority vis-à-vis the Roman state, both to that party and to society at large. The uniqueness of banishment lay in part with its double meaning. It represented the most coercion that a punishment could enforce without directly applying pain. Observers could even use it as a marker of governmental restraint. In one instance, Lactantius condemned the severity of the pagan persecutor Galerius by alleging that, "there was no mild punishments with him—no sending of people to islands, prisons, or mines."¹³⁵ Lactantius wrote around the year 314 and from a position that sympathized with those punished.¹³⁶ His comment jokes that Galerius was too cruel even to condemn an individual to banishment (or worse, the mines). All the same, he regards being sent to an island as a token of grace and derides Galerius for not using penalties such as these. The emperor Julian, a pagan, once received criticism for fixing the penalty for a rapist at *relegatio*. It was the girl's parents who denounced the Augustus for his leniency. Defending his use of banishment, Julian replied, "the laws might find fault with my clemency, but an emperor of the kindest spirit ought to be superior to the other laws."¹³⁷ For this situation at least, many would have seen *relegatio* as too gentle a penalty. Julian boasted that his use betokened his mild spirit, which mattered more than scrupulous application of the law. Half a century later, and from a very different perspective, Augustine also described banishment in a merciful light. About the punishments meted out to his rivals, he could claim that their exile enhanced the reputation of the catholic punisher. Concerning Donatists (Christians who rejected the efficacy of sacraments performed by their adversaries), Augustine claimed that, however villainous their crimes, Christian clemency militated against capital punishment and instead imposed fines and *exilium* for the clergy.¹³⁸ Augustine contended that the *exilium* of the Donatists showed not severity on the part of those who issued the sentence, but rather their magnanimity in choosing so gentle a penalty. To be certain, Lactantius, Julian, and Augustine understood banishment as a form of chastisement. These writers also harbor deep sympathies with (or antipathies for) the parties whom they describe. The critical point is not whether the sources preserve a historically accurate picture of imperial motives. What matters is that authors at different times and of radically different dispositions could use banishment as part of their attempts to cultivate sympathy—and would do by assuming that it represented a ruler's tender-hearted inclination. The stylistic opportunity was only possible because banishment carried a widely recognized quality of restraint. It signaled a magistrate's ability to chastise and simultaneously the capacity to have inflicted something worse. Due to that ambivalence, it could stress clemency or severity by playing up its many variables. This very quality—banishment's malleability—signifies one of its essential traits.

Part of the reason that banishment could carry the reputation of a merciful gesture was because it always held the possibility of being reversed,

no matter how absolute its wording may have seemed. The final chapter of this book will explore that part of the process in detail. However, it is critical for all that follows that the banished could always cling to the plausible hope that their wanderings would come to an end. Emperors declared amnesties; magistrates came and went. A seemingly permanent sentence might unexpectedly be revoked. Most of all, an exile might obtain a recall by placating the authority figure that ejected him. Expressing regret and humility could entice an emperor or high-ranking official to abrogate the initial punishment. For this reason, banishment offered possibilities that other corrective measures did not. Because a show of remorse could lead to its reversal, it sustained an association between the authority and the one banished. This tendency comes to the fore in case of religious, specifically Christian, contexts. To appreciate that dimension, we must attend to the use of banishment in Christian controversies—the subject of the following chapter.

2 Banishment and the Church

The role of the Christian movement signifies one of the most prominent aspects of banishment in the later Empire. It also represents one of its most vexing methodological challenges. Over the course of the fourth and fifth centuries, the institutional church became incorporated into virtually every element of the process. For the historian of banishment, this presents a complicated fusion of sacred and secular concerns. If sacred and secular examples of banishment could neatly fall into separate categories, then a study such as this could simply address them one at a time. This is not the case, however. Every instance of official banishment for sacred reasons required secular involvement: without the might, authority, and resources of the Roman state, such episodes could not have taken place. To grasp the nature of that form of banishment, then, we must appreciate the ways that temporal institutions fused with religious thinking.

Interpreting banishment which occurred for mundane reasons would not require any special allowance for Christian convictions or controversies. In practice, very little evidence reaches us apart from Christian sources, and these often carry interests sustained by themes important to the Christian imagination during the period. We often need to consider the ways that Christian interests could shape this presentation and the author's reasons for including it in his narrative. While no single theory could describe, much less correct for, the various biases of Christian authors in late antiquity, this book will constantly return to the commonalities that Christians shared with their non-Christian contemporaries as well as the factors that distinguished the church from other groups. As a preliminary step, the present chapter addresses the rise and significance of banishment for specifically Christian concerns. Establishing the trends that characterized this phenomenon will form the basis for subsequent chapters in which we will constantly feel the tension between banishment motivated by overtly Christian factors and banishment with no manifest relationship to the church.

The series of foundational theological and ecclesiastical issues in the course of the fourth and fifth centuries—not to mention the rise of the bishop in Roman society—created massive discord in a religion without

an established mechanism for conflict resolution.¹ In fact, banishment is the leitmotif which runs throughout all of the era's major church controversies (and many of its minor ones). Arius, Nestorius, Pelagius and leaders of the Donatist church all experienced banishment. So, too, did certain of their orthodox counterparts, such as Athanasius.² Thus there arose complicated relations between ecclesiastical authorities and Roman officials who, though sincere Christians, had no clear standing in the church. The banishment of bishops sat at the epicenter of that problem.

As bishops took on greater significance to Greco-Roman society, they and their clerical retinues found themselves subject to banishment for a multitude of reasons. In certain cases, the most salient reason had to do with some factor other than religious diversity. After all, a bishop could have maintained perfect orthodoxy but still commit a banishment-worthy violation of Roman civil law. Situations such as these, however significant for later Roman society, do not represent cases of religious tensions. Of course, it may be the case that the allegations of causing a disturbance served as cover for some other deeper cause, in which case a host of factors may have led to the bishop's expulsion. It must also be said that the social standing of the bishop, an authority figure of the Christian movement and member of the new elite in late antiquity, may explain why these individuals received this rather than some other, more coercive punishment.³ The present chapter examines banishment as a technique used to help settle disputes within the Christian community, including right belief, correct practice, and proper self-definition. For clarity, I refer to expulsion in those various occasions as "sectarian banishment." By "sectarian banishment," I intend the phrase to incorporate all occasions of Christian disputation in which participants understood each other as adversaries of the truth and because of which some party encountered banishment.⁴ Identifying the demographics and key features of sectarian banishment presents numerous challenges. This mode of coercion normally fell upon clergymen, but by the end of our period it also befell laymen.⁵ Further, the practice of banishment cannot be fully disentangled from other civil disabilities imposed upon wayward Christians, such as the confiscation of property, the branding of *infamia*, or the deprivation of the right to leave a will.⁶ Nevertheless, banishment emerged as the most prominent and consistent measure applied to clergymen who held a controversial view in the later Empire. This technique developed in tandem with the growth of church councils convoked to address theological or ecclesiological controversies. In the aftermath of those synods, the group that attained victory frequently received governmental support; those who suffered defeat faced a choice between embracing the council's conclusion or enduring banishment at the hands of the secular authorities. That this pattern recurred throughout our period is plain enough; what it indicates about the purpose of banishment is not. In order to grasp the distinctiveness of sectarian

banishment, we must begin with a consideration of religious ejection in Rome's earlier history.

I RELIGIOUS EXPULSIONS IN EARLIER ROME

The history of Republican and early Imperial Rome contains examples of groups expelled because of their religious views. The fact that Christian emperors used banishment to purge territories of Christian dissidents can seem to bear similarities with those earlier trends. Indeed, some scholarship has suggested that when post-Constantinian emperors banished aberrant clergy, they perpetuated the social outlook and practical strategies of earlier Rome.⁷ This judgment sits within a broader perspective that appreciates continuities between classical and Christian Rome, noting that a change in the number of deities worshipped does not require a shift in political philosophy. In general, such a view has considerable merit and keeps us from imagining that the church dropped down from the celestial realm instead of growing out of Mediterranean soil. However, on the subject of banishment, it also substitutes one form of religious banishment for another too smoothly. Without slipping back into a historical model that divorces the early church from its earthly context, there is reason to question whether later Roman Christian authorities treated deviant expressions of Christianity in the same way that early Romans curtailed improper piety. In fact, attending to the logic of banishment indicates that during the life of the Roman Empire there took place a subtle but significant transformation in the ways that critics evaluated divergent forms of religion. The new factor modified the skein of Roman notions by introducing an ideologue's perspective on the problem of diversity and by expanding the scope of ejections.

A contrast between religious exile in the Republican and early Imperial period with what follows helps to throw these novelties into sharper relief. The sources document multiple episodes of religious groups being expelled from Rome, including Jews, Isis worshippers, astrologers, and soothsayers.⁸ However, the reasons, stated and underlying, for those events are far from clear. For present purposes, what is significant is not just the ultimate historical cause (which, in any case, is often hopelessly obscure and whose full motivations may even not have been clear to the authorities at the time). Rather, what matters is the variety of reasons that contemporaries and observers could conceive of as the likely rationale. Right or wrong, those historical guesses reveal the kinds of motives operative in the minds of Romans in the late Republic and early Empire. Their explanations reveal a social vision, all the more so in those cases when they did not know for certain what caused the events which they describe.

One emblematic instance occurred in the year 19, under the emperor Tiberius, when both Jews and Isis followers suffered expulsion. The sources that preserve the memory of that event (Josephus, Tacitus, Suetonius, and

Cassius Dio) ascribe to it differing explanations, focusing on either heightened religious activity or turbulent behavior.⁹ Scholars question which of these possible motivations—if either—actually account for the event.¹⁰ Rather, historians tend to view the unharmonious aggregate from our sources within a larger social context. Under that interpretation, evicting those of a suspect religion took place when it did because of an unstable political environment.¹¹ Anxiety and uncertainty created the need to remove a scapegoat, which constituted a gesture of benevolent statecraft. It may be the case that the original motivations for this event have been lost to history. Nevertheless, the accounts of Tacitus and Suetonius can still inform us about the assumptions and expectations of first- and second-century Romans. It is striking that Tacitus and Suetonius, the two native Romans in the group, believe that an *animus* toward *superstitio* (excessive religious behaviors or ones alien to Rome’s official priesthoods and cults) and foreign rites motivated the Roman authorities.¹² Tacitus regards the group as those *ea superstitione infecta* (“infected by that *superstitio*”); Suetonius understands the whole event as part of a crackdown on *externas caerimonias* (“foreign religious rites”). At a minimum, we can deduce that, to native Romans like Tacitus and Suetonius, a connection between non-Roman worship and physical ejection seemed natural. Quite apart from Jewish deceit or growth (as Josephus and Dio allege), the fact that followers of Isis and Yahweh practiced “un-Roman” rites made them plausible candidates for ejection, at least to Suetonius and Tacitus.

Over the course of the Republic and Principate, there also took place multiple expulsions of astrologers. There was no simple category of “astrologer” in the Roman world; those who used various means, such as the stars, animal evidence (be it entrails or ornithic flight patterns), and revelation, to foresee the future all represented examples of this type.¹³ At all events, it involved contact with higher powers and unseen forces; it did not, however, necessitate worship of any particular deities. Sources for, and interpretation of, the astrologers’ ejection vex the historian.¹⁴ For instance, the first attested occasion is described in a single source, Valerius Maximus, who wrote about 150 years after the event and whose work in the relevant section survives only from two epitomators.¹⁵ From what we can discern, in 139 BCE the *praetor peregrinus* banished astrologers from Italy for several possible reasons—because the authorities saw astrology as intrinsically misguided, because the astrologers sold their discoveries to unwary customers, or because they erred in certain of their predictions. It also seems likely that an unstable political situation in Rome, prompted by a land reform bill proposed and then retracted by the consul Gaius Laelius “Sapiens,” preceded the move.¹⁶ If we struggle to determine the stable ground in this episode, it is still the case that over the next 300 years, a general pattern would emerge: in times of crisis, Roman authorities issued temporary and local bans prohibiting astrologers from Rome or Italy, but did not endeavor to outlaw astrology in other regions of the Empire.¹⁷ Cases

like the one preserved in Valerius Maximus offer too little in the way of evidence. By contrast, an episode under the emperor Tiberius displays the opposite problem: it receives fuller treatment in the sources, but in contradictory ways. The sources—Tacitus, Suetonius, Ulpian, and Cassius Dio—relate that in 16 CE the astrologers were removed by means of *senatus consulta*, although they differ on whether one or two decrees were passed.¹⁸ They also reveal that this wave of banishment was accompanied by more severe punishments for some. Tacitus states that Pituanus and Marcius were killed, Cassius Dio indicating that Tiberius sentenced foreigners to death and forbade Roman citizens from the city.¹⁹ A striking fact in this purge is that, though the roundup targeted a broad spectrum of seers and diviners, the emperor himself subscribed earnestly to a belief in astrology. Tiberius put great stock in the prognostications of a certain astrologer, Thrasyllus.²⁰ His ban on astrologers in Italy could not have resulted from a belief that astrology itself was pernicious. Because Tiberius felt that astrology could accurately reveal the future, he did not wish others exploiting its resources. In sum, these astrological expulsions (which occurred between nine and fourteen times during the period from 139 BCE to c. 175 CE) aspired to the momentary retardation of foreign forms of divination. They did not seek to curtail forms practiced by official Roman colleges, such as that of the *haruspices*, nor did they show any interest in eliminating the practice of astrology in the provinces ruled by Rome.²¹ Rather, beginning with Augustus in 11 CE, official policy forbade provincial astrologers from consulting the stars in private consultations and on matters relating to the date of someone's death.²²

Some commonalities run throughout pre-Christian Rome's history of expelling religious groups. At a minimum, ejection was not a tool designed to eliminate these groups outright. The point was not to exterminate these cults, but rather to "cut them down to size."²³ It is telling that the Roman authorities did not seek to stamp out Judaism, the cult of Isis, or astrology elsewhere.²⁴ Well beyond the city's boundaries, other peoples could maintain their traditions as long as those traditions did not challenge Rome's supremacy or cause turmoil in the areas that Rome ruled. The Romans' non-actions, though, should not be understood as enlightened tolerance. Rather, they invested little or no effort in eradicating foreign practices outside of their immediate vicinity.²⁵ Jewish or Egyptian worship might be permissible if it occurred in the proper place and did not lead to disturbances. A second feature is that an interest in preserving pure Judaism or Isis worship had no hand in the various crackdowns. There are certainly hints that the governmental authorities wished these groups to give up their offending practices.²⁶ Officials did not imagine that they, the Romans, practiced the only valid form of Judaism, Isaicism, or astrology. In none of this does there seem to be a sense that Romans intended banishment to turn Jews into Romans or astrologers into *haruspices*. Separation from Rome did not seek the religious improvement of the banished. Its

more prosaic aspirations seem only to have been, first, to minimize the numbers of these sects in Rome and, second, to enforce a sort of neutrality from those who would stay: Jews, astrologers, and the others probably did not participate in the civic cults of Rome, but their presence was acceptable as long as they did not engage in the kinds of problematic activities that led to the initial suppression.

II CONVERSION BY BANISHMENT

Rome's pre-Constantinian history in excluding religious cults and astrologers goes some distance in explaining the later expulsion of heretics. However, the introduction of Christianity did force certain shifts. Although late antique Christians operated within the parameters established by prior legal tradition, their attitudes toward belief altered the conventional interest in practice.²⁷ It also served to intensify debates over correct doctrine. Ordinarily, participants in this drama saw themselves as members of the true church and their adversaries as its enemies. According to this line of thinking, no common faith united the banished and those who opposed them; exiles had cause to see their suffering as a testament to the truth of their cause, while their adversaries saw themselves as protecting the integrity of the church.

In most cases, the Christian sources were too close to events to appreciate that all parties felt themselves to be true Christians. In rare cases, however, an observer noted the fact that the parties involved were, at least theoretically, all members of the same religion. One witness who absorbed this truth was the translator and historian Rufinus of Aquileia. Looking back on the era of Constantius (the middle of the fourth century), he reflected, "this was the time when the face of the church was foul and exceedingly loathsome, for now it was ravaged, not as previous by outsiders, but by its own people. Those banished and those who banished them [*fugabat alius, alius fugabatur*] were all members of the church."²⁸ Rufinus's insight held true for many subsequent moments as well. However divergent their notions of God, Christ, the church, free will, or salvation, the authorities and the condemned believed themselves to represent the authentic expression of Christian tradition. In other words, throughout the fourth and fifth centuries, individuals both inflicted and endured banishment for the same reason—they believed that they did so in service of true and legitimate Christianity.

If service to the faith explains the greater cause of Christian controversy, the reasons for settling on banishment in particular still require explanation. In part, its advantage lay in its being able to serve multiple functions. Most obviously, it took offending bishops away from their pulpits and created open spots for prelates more agreeable to those holding sway. This feature cannot have escaped the attention of participants, even if they did

not stoop to mention it expressly. Pope Leo, for one, wrote to the council gathering at Nicaea in 451 and acknowledged that bishops who refused to accept the Second Council of Ephesus had been sent away and their sees granted to others.²⁹ In addition, banishment gave a physical expression to the ideas rejected. In an age marked by a myriad of councils, much confusion surrounded the basic information on each one.³⁰ Misinformation and the absence of communications could mean that a particular theological view might prove victorious in a council yet have no adequate means of advertising its triumph. Banishment became a device to do exactly this in the person of the exile. By fashioning a clear loser, the process also demarcated a winner. The ejected bishop might serve as hard evidence to distant parts of the empire of the condemnation of a certain point of view, namely, his own. Creeds and encyclical letters also endeavored to accomplish this end, but a humbled bishop could have provided more concrete evidence.

Above all, sectarian banishment aimed at the improvement of its victims. It is vital to recall that this punishment could sit within a series of gestures by he who decreed it and those who endured it. This was an especially marked trend in the case of ecclesiastical disputes. Quite often, Christian rulers evicted obstreperous Christians in the hopes that they would reflect on the views that led to their ejection and amend their ways. Of course, divining the guiding philosophy behind any Roman punishment remains daunting. Rarely did those implementing the punishments directly state their aspirations and assumptions. In this case, however, participants from various times and on different sides of the process understood banishment to carry a function that aimed at the exile's rehabilitation, even conversion.

This widespread sense begs the question of whether a new philosophy of punishment was guiding the penalties chosen for Christian sectarians. Thinking on the general treatment of heretics rather than banishment in particular, Laurette Barnard makes several essential observations: conventional Roman law did not regard "religious dissidence" as a civil offense; the laws promulgated under Christian emperors tended to cite piety rather than secular instability as their reason for taking action; and the penalties applied to heretics showed remarkable restraint even while punishments in general grew more severe.³¹ All of this leads Barnard to conclude that a new penology had taken root, one which intended to correct the wayward Christian and to isolate the unreformable.³² Banishment could serve as a way for secular authorities to communicate with the punished, especially as a threat.³³ While many of Barnard's arguments are unassailable, there do exist some affinities between the uses of banishment in secular situations and sectarian banishment. Banishment could express a clear stance and correct error in secular and religious circumstances alike. Those rehabilitative goals, however, emerge much more strongly in the religious sphere. Ultimately, expulsion aspired to the improvement of the banished Christian. It endeavored to transform the heterodox into the orthodox. A

chronological sweep, extending from Nicaea to Chalcedon, indicates the outlines of that phenomenon.

The roots of sectarian banishment, naturally enough, lie in the reign of Constantine. His rule marked the first time that an Augustus yoked his interests to the concerns of the church. Some of this emperor's letters to clergymen reveal that, even before an actual sentence took place, the threat of impending banishment formed the critical basis for what followed. In the year 325, this emperor wished to support the creed formulated at the Council of Nicaea as a symbol of theological unity and hoped that all bishops would ally themselves with this notion.³⁴ He used both banishment and the threat of it to cajole others into accepting those views. In one letter written to the church in Nicomedia, the emperor explains that because their former bishop Eusebius and his compatriot, Theognis of Nicaea, welcomed and protected certain theological recusants, he sent both bishops into banishment.³⁵ Later, the same emperor directed a letter to the bishop Theodotus of Laodicea, who was present at the Council of Nicaea yet did not embrace its doctrine.³⁶ In his letter, Constantine pointedly reviewed the fate of Eusebius and Theognis and urged Theodotus to distance himself from the influence of any like-minded individuals. His review of the case seems designed to highlight the fact that the imperial warning sat within an ongoing effort and merits citation at length. Constantine writes:

How great has waxed the strength of the divine wrath it is easy for even you to learn from what both Eusebius and Theognis have suffered, who, having cast abuse upon the most holy religion by the troop of their own band of bandits and after they had gained pardon, have sullied the Savior God's name. For, when especially after the synod's consistent harmony it was necessary that they should have corrected their earlier error, then they were caught cleaving to their absurdities. Therefore, then, Divine Providence has expelled them from its own people, since it did not endure to see guileless souls corrupted by a few persons' senselessness and now has demanded proper punishment from them and will exact even greater thereafter through all time.

Wherefore I have thought that it ought to be made manifest to your Sagacity that, if any evil advice of such persons—as I myself do not suppose—should settle in your course of life, you, after having removed this from your mind, should be zealous to show pure thought—as is proper—and sincere consecration and undefiled faith in the Savior God.³⁷

By outlining the punishment that befell Theodotus's colleagues, Constantine made plain what would await the bishop if he did not fall into line. Banishment, at this point still only a threat, therefore provided a further step in a negotiation between the emperor and bishop. Had the bishop persisted, then it would have formed the next stage. Its promise

gave Constantine the means to demonstrate his conviction by exercising his authority on the other party in the dispute. It also stood as a forceful expression of Constantine's message, namely that the views of Nicaea deserved Theodotus's adherence. If Theodotus doubted or was confused about this dynamic, Constantine held out banishment as the method to disabuse him of his misconceptions. In this instance, this gambit worked. A proponent of harmony, Constantine urged the holdouts to consent to majority opinion. Whatever theology ultimately persuaded the emperor, in these letters he regards bishops like Eusebius, Theognis, and Theodotus as meriting chastisement because of their unwillingness to accept the dominant view. Unyielding refusal would amount to a rejection of concord, and thus an action meriting banishment.

Finally, a letter from Constantine to Arius himself reveals how the Augustus envisioned banishment functioning. The letter is preserved in the *Ecclesiastical History* composed by Socrates, a fifth-century author. In it, Constantine speaks to Arius, the nexus of theological controversy and one banished by Constantine himself, with a degree of warmth. The emperor instructs Arius to come to the imperial court using the *cursus publicus* in order to make a profession of his faith.³⁸ Constantine wished to see that Arius could make his peace with the creed of Nicaea and, satisfied with his declaration, returned him to Alexandria. Socrates could only understand the episode as an expression of Arius's cunning deceit. Constantine, however, appears to have been convinced that banishment had achieved the desired effect. After all, Arius (and his ally Euzoïus) pointedly promised to avoid all forms of unnecessary questions and disputations.³⁹ Such appears to have sufficed. The emperor lifted the ban.

Constantine's son Constantius developed his father's legacy and ruled over a period that may be most famous for its banishing of bishops. From a very different perspective, the bishop Athanasius registers the objectives at work in that effort. All of the bishop's assertions interwove with theological propaganda and political polemic. Nonetheless, Athanasius, himself banished by Constantius, was in an excellent position to articulate the message that the punishment impressed on its victims. Discussing Constantius's efforts to banish Liberius and his allies, Athanasius writes, "he set apart those who had spoken boldly and confessed in common; he separated those who were bound together in faith—so that as they died they would not see one another—believing that bodily separation would altogether disconnect the disposition of the soul and that those being divided from each other would forget the unity of mind and camaraderie among them."⁴⁰ Certainly, this representation has its rhetorical side, yet it preserves something of the motives behind the technique in question (banishing exiles to separate locations). While those clergymen were unlikely to "forget" the beliefs that got them banished or the feelings of solidarity that existed between themselves and their fellows, the will to persist in a particular theological point may well have been dampened by seclusion.

The double purpose of banishment—as a threat and as a form of rehabilitation—emerged with particular vigor under the house of Theodosius.⁴¹ Theodosius I leaned on banishment as the means to exterminate schism and heresy. For instance, a law of 392 informed the augustal prefect (an office presiding over Egypt and the ranking equivalent of a vicar) that anyone who unsettled the church and refused to amend should suffer *deportatio*.⁴² The administrations operating under his sons, Arcadius and Honorius, issued several laws maintaining the link between religious deviation and exclusion. Using various levels of expulsion, these regimes repeatedly sought to drive sectarian Christians away from their localities.⁴³ Evidence for the persistent belief that the threat of extradition could reform heretics exists in a law issued by Valentinian III. Helpfully, this law survives outside of the Theodosian Code, which means that the law as we have it bears closer resemblance to the original promulgation. In 425, this Valentinian decreed:

We instruct that the divergent bishops following the nefarious error of Pelagius's and Caelestius's doctrine be visited by Patroclus, bishop of the sacrosanct law. Because we trust them to amend, if within twenty days from the time of the indictment (during which we have allotted them the possibility for deliberation), they do not straighten out their errors and return to the Catholic faith, they will be expelled from the Gallic regions and in their place a more trustworthy priesthood will be substituted, so that the stain of the present error may be cleansed from the souls of the people and in the future the good of a more righteous discipline may be put in place.⁴⁴

It is striking that Valentinian III's law first lays down an ultimatum and then offers the clergy a period of twenty days to reflect on the matter in the belief that they can be reformed. This legislation explicitly states its intention to use the weaponry in the imperial arsenal for the benefit of both the citizenry and the would-be exiles.

Magistrates could urge compliance apparently with real sincerity at the same time that they underlined the consequences of refusal. On the opposite side of the Empire, various officers endeavored to enforce acceptance of the first Council of Ephesus in 431. Much of the evidence for this era of church politics arises from a complex and unusual source. An individual typically referred to as “count Irenaeus” began as a friend and supporter of the Constantinopolitan patriarch and eventual heretic Nestorius. He was banished for his use of governmental resources in Nestorius's cause, but later altered his theological views and became ordained bishop of Tyre (only to be eventually deposed and forbidden to return there).⁴⁵ He wrote a book in Greek known originally as the *Tragoedia* describing the Nestorian controversy and including relevant documents. This work survives in a Latin version called the *Synodicum*.

From its pages, we encounter the personalities and views prevalent at the time.

The *Synodicon* contains several revealing letters, including one from Dionysius (here styled as the *magister militiae*) to his vicar, Titus, and to four bishops who opposed that council's condemnation of Antioch's brand of theology, which emphasized the integrity, even separation, of Christ's human and divine natures.⁴⁶ Dionysius stressed to the bishops that two options lay open to them: entering into ecclesiastical communion with the bishops of Alexandria and Antioch, who did support the council, or suffer expulsion from their churches and their polities. The vicar Titus then sent his own letters to the bishops Meletius and Alexander urging them to communicate with the metropolitan Patriarchs, thereby signaling their acceptance of Ephesus's conclusion.⁴⁷ His letter to Alexander of Hierapolis, for example, cites Dionysius's earlier letter and implores the bishop to move past earlier controversies in order avoid the risk of expulsion. Alexander did not heed Titus's advice, prompting Dionysius to reiterate his request in another letter to the bishop.⁴⁸ Over the course of this correspondence, Dionysius and Titus made Alexander's prospects explicit. He could turn his back upon Antiochene theology and embrace ecclesiastical harmony or prompt the secular authorities into taking action against him. Alexander's banishment clearly did not strike out of the blue. It was rather a step preceded by several invitations to "convert." Here, Dionysius and Titus make little attempt to appeal to Alexander on doctrinal grounds. Their entreaties call on the bishop to preserve unity, not actually to believe any particular theological point. They leave some room open for Alexander's private conscience, but they insist on ending controversy and achieving concord. The conversion they have in mind is one from theological particularism to unity; they ask Alexander to subordinate differences to harmony because, in this view, harmony itself is the greater good.

It was possible, though, to apply banishment (and other coercive techniques) with excessive zeal. At the Council of Chalcedon in 451, bishops from the Orient would look back on the decisions made at the next Council of Ephesus, held in 449, and claim that they had only agreed to its decisions because of bald force. Known to posterity as a *latrocinium* ("robber council"), this synod was made infamous for allegedly coercing its attendees to condemn Flavian, bishop of Constantinople.⁴⁹ According to minutes from Chalcedon's first session, the Oriental bishops there protested that they only condemned Flavian under duress. In their words, "No one agreed; there was force—force with blows. We signed on a paper that was unwritten. Deposition was threatened against us; banishment [ἐξορία] was threatened against us. Soldiers with cudgels and swords stood near."⁵⁰ On one hand, these bishops may well misrepresent what that backdrop of military personnel meant. The Oriental clergy make it seem as if the doctrinal decision at Ephesus resulted from

physical force; in reality, physical force followed the decisions made at virtually all major councils, including that at Ephesus. On the other hand, they merely read the uncomfortable subtext: those who dissented faced earthly consequences; clergy at any contentious council had to weigh their personal scruples against the Empire's inevitable show of force.

By the conclusion of the fifth-century Christological controversy, the association between mistaken faith and banishment had become so firmly established that clergymen could anticipate and even openly encourage the forcible translation of those whose views they rejected. In 451, Leo the Great, bishop of Rome from 440–461, wrote to Pulcheria, Augusta in the East, expressing his concern about the monk Eutyches and his monastery's proximity to the capitol. Leo states, "about Eutyches, moreover, the author of all scandal and depravity, may your Clemency bid that he be transported far away from that place which is too close to the city of Constantinople, so that he will not employ those whom he has attracted to his impiety with their constant consolations."⁵¹ Even more pointedly, at the Council of Chalcedon, certain clergymen, who opposed bishop Dioscorus of Alexandria for his leading role in the second Council of Ephesus (which ratified the monophysite theology of Eutyches), issued acclamations demanding his ouster. According to the Greek version of Chalcedon's minutes, the clergy of Constantinople declared, "Dioscorus into banishment [τῇ ἐξορίᾳ]! God deposed Dioscorus!" while the bishops from the Orient added, "The Egyptian into banishment! The heretic into banishment!"⁵² These churchmen could utter shouts such as these because Christians in various positions and on all sides of a debate recognized that banishment suited sectarians. Moreover, these acclamations demonstrate that the desire to see heretics ejected was shared by clerics and officials alike. This was not a phenomenon that emperors unilaterally inflicted on bishops; banishment for the dissidents came to satisfy an urge, held by both ecclesiastics and magistrates, to see divergent strains of Christianity removed from the greater whole.

At various times and places after Constantine, the combination of discord within the church and investment from the government led to sectarians being banished. It seems that the punishment was rarely an unforeseeable result and often followed on the heels of explicit instructions to reform, amend, or capitulate. Undoubtedly those who refused experienced the penalty as oppression. Those who directed the punishment, however, viewed it in a different light. The threat of banishment as well as its actual implementation served, in the minds of the authorities, as a mechanism to thrust repentance upon those in error. Part of its logic was clearly bald force. But part was the belief that banishment was a suitable response to heresy because it could transform a misguided Christian into a correct one. Ideally, the "heretic" would recant in banishment, yielding another supporter for a theology or view that evidently had its doubters.

III CONTAGION AND REMOVAL

The notion that the civic authorities would invest their energies in forcibly evicting clergymen throughout the Mediterranean world forces observers—ancient and modern—to confront the thorny issue of the relationship of the Roman government to the Christian movement. To tease apart this issue, it is essential to think with suitable interpretive categories. Importantly, the familiar notions of “church” and “state” do very little good for examining the situation in late antiquity.⁵³ That distinction accords poorly with divisions of the ancient world. The Roman state was a sacred institution; Christian religious professionals had obligations to the world at large. Thus it was not that church and state were intermingled—it is rather that those two concepts as distinct categories had not yet been invented. Even the antithesis of “bishop” and “emperor” can have its limitations. Certainly, there existed real tensions between the holders of those offices. “Bishop” and “emperor” have the natural advantage of being categories thinkable in the later Roman context. However, this opposition alone does not account for the wider trend of religious expulsion in the tetrarchic and post-tetrarchic period. These terms can also easily become stand-ins for “church” and “state” and at moments they are not analytic enough to capture the ground shared by ecclesiastics and magistrates vis-à-vis the different agendas held by those parties. In addition, certain occasions may have stemmed from imperial laws, issued in the name of the emperor(s), but not expressing anything at all of the actual emperors’ views. Intermediate magistrates, powers behind the throne, and the imperial chancellery could have stood behind such decrees or actions, thus entirely circumventing the Augusti themselves. Conversely, religious persecution might fall on someone other than a bishop. For instance, imperial actions against Pelagius and his supporters were initiated by clergymen and prosecuted by regional magistrates against laymen.⁵⁴ In that case, the actual use of banishment would have little or nothing to do with an “emperor-and-bishop” dynamic. Concentrating on a different dichotomy—one that explores the tension between ideology and implementation—better pinpoints the issues raised by sectarian banishment. Sectarian banishment sits on developments in both realms. Over our period, an ideology developed that understood these groups as pollutants for whom no place was licit. But ideas, however powerful, when they exist without tangible expression reveal more of a civilization’s imaginative world than its members’ lived experiences. These notions relied on governmental actions to make that worldview manifest. In conjunction, ideology and implementation help to explain the full resonance of sectarian banishment.

The axis here is not just one running between the emperor (or other important magistrate) and the bishop (or other exiled clergyman). Rather, it is the one that connects the magistrate and the territory over which he presided. The question is thus not just over who should lead the church or how much diversity Christians were willing to tolerate, but how and why they protected their surrounding regions from religious threats. They did

so largely by removing the “infection” from the host with the technique of banishment. In thinking in this way, the laws reinforced the bond between the governmental authorities that pronounced judgment and the lands vacated by the exile. It displayed the former’s concern for that territory’s virtue and his benevolent interest in protecting it. The nature of Roman governmental authority underlies these inclinations. The emperor himself was “the guardian of his people.”⁵⁵ Roman magistrates, though frequently venal in practice, stood for their neighbors in principle. They exercised a jurisdiction only within set spheres, confined in the provinces to those who resided there.⁵⁶ When they punished sectarians, they did so on behalf of the local citizens.

Additionally, all discussion of the Roman governmental persecution of sectarians involves an intricate issue: how did the punishments for heresy correspond to the pre-existing framework of Roman law? In particular, this inquiry contains three related questions. First, did heresy itself represent a criminal offense? Second, if heresy was a criminal offense, was heresy *per se* the crime or did Roman magistrates punish it under some other legal heading, such as *maiestas* (high treason)? Third, were the disciplinary actions applied to sectarians the juridical consequences of a crime or were they applications of *coercitio*? The present study focuses primarily on the third question, but discussion necessarily involves some reflection on the first two.

With respect to the first question, it seems clear that by the beginning of the fifth century, heresy had come to signify a public crime. Indeed, a western constitution of 407 says just this: “We will that [the error of the Donatists, Manichaeans, and others] be a public crime, since what is committed against the divine religion is endured as the injury of all.”⁵⁷ I doubt that all emperors after the time of Constantine adhered to this view, but its acceptance in the Theodosian era seems beyond question. The same law continues that, “the inquisition [of heretics] stretches also into death. For, if in crimes of *maiestas* it is lawful that the memory of the deceased be accused, not unjustly in this case as well ought [the deceased] to come under judgment.”⁵⁸ Although it presses the evidence too far to claim that that the legislation in question understood sectarians as guilty of *maiestas*,⁵⁹ the prosecution of variant forms of Christianity does seem to have taken place within the pre-determined categories of Roman law.⁶⁰ For present purposes, the third question (whether the legal pressures applied to sectarians were the results of formal trials or simply extensions of *coercitio*) has the most acute bearing.

Discerning what legal basis, even which level of punishment, was used in sectarian banishment can be problematic. Some aspects stand out with greater surety. We know that *deportatio* was possible for sectarian reasons, at least from the middle of the fourth century onwards. Typically, when an imperial law specified *deportatio* as the penalty suitable for a certain sectarian violation, the law had a broad scope in mind that appears very strongly

to include clergy as well as laity. *Deportatio* signified a direr possibility for laity than for clergymen. The factors that distinguished *deportatio*—in particular the loss of Roman citizenship, *dignitas*, and property—made much less difference in the case of the clergy.⁶¹ Their status in society stemmed primarily from their ecclesiastical standing, not their civic one. In any case, various legislation shows the government's intent to apply *deportatio* to illicit forms of Christianity. Valentinian's 367 letter to the urban prefect Praetextatus, for one, canceled a previous sentence of *deportatio* pronounced against the anti-pope Ursinus and his supporters.⁶² In similar fashion, Honorius's rescript against Pelagius and Caelestius, issued in 418, commanded that any followers of Pelagius's and Caelestius's views should, after a public trial, be sentenced to "deportation of inexorable exile" (*inexorati exsilio deportatione*).⁶³ A clear and very helpful law under Theodosius II makes a firm delineation between *relegatio*, which it threatens for those who receive a second baptism, and *deportatio*, which it holds out for Eunomian clerics.⁶⁴ This law is unusual in its explicit statement that sectarian clergy deserved *deportatio*. Because it was issued in the East, it offers a complement to the western laws on Ursinus and Pelagius, which leave open the possibility of deportation for clergy.

Laws quite often prescribed a more modest form of banishment for the rank-and-file followers of such movements. Laws from the Theodosian dynasty direct magistrates to drive sectarians from their cities and towns, using verbs such as *propello* ("to drive away"), *pello* ("impel"), the passive form of *arceo* ("to keep out"), and *extermino* ("to drive out").⁶⁵ In these cases, the legislation neither singles out clergy or leadership for punishment nor specifies a clear penalty along the lines of *relegatio*. The body of laws therefore suggests that the steps it imagines were forms of magisterial *coercitio* that the magistrates were to utilize when dealing with large numbers of sectarians.⁶⁶ They include no other legal suggestions because their sole point was physical exclusion.

The mode of implementation in all such cases holds a certain resemblance to the story of earlier Rome—magistrates applied pre-existing legal sanctions to individuals who practiced an illicit form of addressing higher powers. However, the ideology operative in sectarian banishment was very different from the motives that drove Republican and early imperial magistrates to oust astrologers. The Roman rulers who saw fit to cast out "foreign" soothsayers still subscribed to the belief that divining the future (whether via astrology or some other method) was entirely legitimate. Both containing their presence in Rome and limiting their influence in the provinces rested on the same premise: astrologers could possess dangerous truths. The rationale for repressing them was to avert upheaval.⁶⁷ Conversely, Christian emperors and bishops believed that sectarians possessed dangerous falsehoods. It was not, they felt, that heretics harbored knowledge which might work against the sitting regime. It was rather that they persisted in errors that gave an affront to God.

The realm of ideology suggests even further distinctions between the treatment of astrologers and the response to sectarians. Whereas earlier Romans permitted astrology (with some constraints) in the provinces, under and after Constantine, the Christian community began to feel that heresy could not properly reside anywhere. Earlier, Romans did not show much interest in coaxing better Roman-ness from astrologers; they wished to curtail its practice so that it would not disrupt the smooth operation of the state, but, as the affair under Tiberius shows, those who ejected astrologers had no compunctions about astrology itself. Conversely, the Christian geography of religious error did not conceive of heresy as foreign intrusion, nor as a practice that could continue tolerably in Roman territories as long as it stood apart from the center itself. Christians post-Constantine developed a conviction that deviation from the norm constituted an improper mode of religion, one which would contaminate its surroundings and could not exist in any region.⁶⁸ In the minds of at least some within the church, heterodoxy represented an acute version of an infectious religious alternative. Unlike the foreign cults that were expelled in earlier Rome, heterodoxy did not have another area to which it belonged to and, whether or not it caused actual commotion, had a damaging effect on the entire region in which it lodged.⁶⁹ Of course, later Romans were still Romans, so they naturally perceived connections between proper cult and secular order,⁷⁰ but some of them (if they were Christian) wished to expel religious deviants—neither because they were foreign nor because they had caused disturbances, but because their views were by their very nature abominations injurious to the community.⁷¹

It can be difficult to pinpoint the exact origins of this trend. Though purity concerns traditionally played a minor role in Roman religions, Greek religion attended closely to the process of eliminating pollution.⁷² Indeed, an essential function of Greek religious rituals was to remove μῑσμορ (“stain” or “defilement”) and thereby set mortals into a state fit for company with the gods.⁷³ Greek rules of purity served, among many other things, to make individuals fit or unfit to enter a temple, to distinguish sacred areas from profane, to unify those existing within a specific zone of purity, and to mark time.⁷⁴ Although at times the Greeks did, of course, couple their understandings of μῑσμορ with thoughts on moral failings, the primary objective of their purification techniques was to remove not sin but stain contracted through living ordinary life.⁷⁵

Some of these ideas were still in circulation in the early fourth century. At the dawn of that century, Diocletian issued a proclamation targeting Manichaeism and invoking the imagery of infection.⁷⁶ According to this law, the Manichaeans might seek to infect the Roman Empire with their Persian laws and customs “just as” (*veluti*) with venoms from a malevolent beast.⁷⁷ The law presents the notion that foreign, disruptive, and pernicious religion resembles a poison. At this stage, the comparison is clearly metaphorical. The law indicates that Manichaean doctrine spreads in the manor of

venom, but not quite that it is a poison and certainly not that it attaches itself to the land.

In the year 303, Diocletian inaugurated “the great persecution,” which his colleagues and successors continued in various ways and to different degrees.⁷⁸ The emperor Maximinus Daia, ruler of the eastern portion of the Empire, issued a rescript that banned Christians from their home cities in 311 or 312. Although reconstructing the pronouncement presents several challenges, the text offered by Eusebius seems to offer a general sense of the original.⁷⁹ In the city of Tyre the inscribed stele indicated that Christian refusal to worship the classical gods primarily signified ignorance rather than willful error but, if those Christians still refused to appreciate the bounty guaranteed by the gods, then the resisters deserved punishment. According to Eusebius, Daia decreed, “let them [the Christians] be driven out and distantly separated from your city and the surroundings, as you resolved, in order that . . . your city, once separated from all defilement and impiety, according to its natural purpose may heed the rites of the immortal gods with the requisite sense of awe.”⁸⁰ Eusebius’s rendering of the original proclamation into Greek has Daia mandating that the Christians “be driven out” (using the passive of ἐξελαύνω) of the environs in order to purge it from μῑσμη and ἀσέβεια (“impiety”). In the main, the expulsion at Tyre conformed to Greek conventions; the petition and subsequent law alleged that improper activities contravened the regulations of sacred space. Daia’s action turned the entire city of Tyre into a temple and an abode of the gods, making any intrusion a contaminating influence.⁸¹ The justification for this expulsion worked by drawing the sacred boundaries around the entire city and contending it was then vulnerable to contamination from persons whose actions (or lack of actions) signify a “stain or impiety.” While Daia must have held sincere religious commitments, the process in Tyre has a strained quality to it. By stretching the limits of a “temple” beyond the ordinary understanding of those terms, the emperor’s gambit gives the impression of a rationalization in order to justify the persecution of Christians.⁸² Nevertheless, ejection, in this instance, claimed to purify the shrine, not the person. The mode of implementation, while loosely similar to that employed by later Christians, can mask a difference in ideology.

As the fourth century wore on, Christians emerged as a powerful and perhaps dominant force in the Roman world. That very ascendancy, however, forced issues to the surface which the community answered with debate, church councils, and banishment. It is certainly true that the ejection of heretics in the fourth and fifth centuries drew from prior trends. Church politics—which used exclusion as the highest order of coercion—and Roman law—which limited punishments to exile for those who held elite class status—both furnished raw materials for sectarian banishment.⁸³ Nonetheless, the phenomenon took on new forms that were not simply the perpetuation of earlier trends.⁸⁴ To understand the novelties of sectarian

banishment, we must excavate down into the worldview which undergirded the phenomenon.

Grasping the intentions behind a Roman punishment requires extensive examination of Roman laws.⁸⁵ As sources, they contain intrinsic difficulties. Readers can rarely know with any certainty whose views the laws express, or to what degree they were implemented. For present purposes, it matters very little whether a given law expresses the intentions of an actual emperor. Even if they do not reveal the mind of the Augustus, they must indicate somebody's thoughts. In fact, a law generated by several officers and committees might attest better to common consensus than would the decree of an absolute monarch. Moreover, when the laws under multiple regimes and in various places give voice to similar ideas, it suggests that those notions existed extensively. Finally, the social vision(s) described in Christian legislation accord with certain views also afoot in Christian literature during the same period. This last factor shows that the notions at work prevailed more generally and were not just flourishes of the legislative process.

The second part of this chapter has illustrated the practice, established under Constantine, of evicting clergymen in order to rehabilitate them. Alongside this directive, there arose a sense that sectarians could contaminate their surroundings. In its inchoate form, this sensibility arises in the laws from Constantine's reign. The letter sent to Theodotus of Laodicea, introduced above, contains an explanation of why forced removal would be necessary. It informed the wavering bishop that "Divine Providence has expelled [Eusebius and Theognis] from its own people, since it did not endure to see guileless souls corrupted by a few persons' senselessness and now has demanded proper punishment from them."⁸⁶ As Constantine saw it, the error of a few could erode the integrity of others. A danger lurked in the false beliefs propounded by Eusebius and Theognis, quite apart from any imperilment it might have brought upon the civic Empire. Just by believing in a heretical view, Constantine holds, these bishops threaten the sound faith held by others in the church. It stands to reason that Eusebius and Theognis, as bishops, could have disseminated their views through homilies or informal conversation with their "guileless" parishioners. All the same, Constantine has articulated the seeds of an idea that will grow over the following decades—that putting faith in an incorrect interpretation of Christian doctrine not only jeopardizes the believer but it puts others in the vicinity at risk as well.

A similar view crops up in a separate Constantinian letter, this time addressed to "heretics." This piece of Constantine's legislation was preserved in Eusebius's *Life of Constantine*.⁸⁷ In this case, while the letter seems genuine, its timing remains indeterminate.⁸⁸ Its message makes a passionate case against the groups that the emperor regarded as schismatic. On the pragmatic level, the letter forbids long-standing heterodox groups from assembling and orders their physical churches to be transferred to orthodox

hands.⁸⁹ On the rhetorical level, the letter informs its recipients that, “by continually sinning under a pretext of godliness you make all things foul, you wound innocent and pure consciences with deadly blows” and that imperial action is required because “protracted neglect allows healthy people to be infected as with an epidemic disease.”⁹⁰ Naturally, this language represents a metaphorical or picturesque way to express the ruler’s concern. But it is also true that the images chosen can offer insight into deeper beliefs. In this case, the error of a few was a contagion that could infect the sanity of the many. For this reason, banishment was needed to remove the pollutant. On this point, it matters very little whether the ideas represent the authentic views of Constantine or the fantasy of his episcopal follower. They show that in the 320s, some Christians could imagine heresy as a pollutant and one that made necessary the banishment of its adherents. Importantly, at this moment in history, the scope of the problem still seems limited to those inside the church. Heresy seems not to touch a province generally but only to threaten the other Christians in the area.

As the years wore on, and the percentage of Christians in the Roman Empire grew, the scope of potential infection also was enlarged. In its fullest expression, this ideology regarded all areas under Roman rule as liable to the contamination posed by sectarian ideas and banishment as the appropriate way to neutralize their threat. Like anything as subtle as an idea, its growth pattern resists precise tracking, though there are indications that in the middle of the fourth century Christians could view banishment as the means to remove impurities not just from their specific churches but from regions as a whole. Certain evidence hints that these views received imperial approval under the emperor Gratian (ostensible sole ruler in the West from 375–383). Under his administration, a controversy erupted surrounding the Spanish Christian, and eventual bishop, Priscillian. Priscillian favored an ascetically rigorous view of Christianity and became a divisive figure.⁹¹ After Priscillian was ordained bishop of Avila, his nemesis, the bishop Hydatius of Merida, petitioned Gratian and received a rescript directed against false bishops and Manichaeans (distained groups that Priscillian might be considered an example of).⁹² In Gratian’s rescript, according to the later author Sulpicius Severus, “all heretics were ordered to withdraw not only from all churches and cities, but to be driven out beyond all lands.”⁹³ This law has not survived and we cannot eliminate the possibility that Severus, writing in the early fifth century, has retrojected the logic and language of his generation back into the affairs of an earlier one.⁹⁴ If Severus has given an accurate rendering of the law, though, it offers an extension of the range envisioned by Constantine. Gratian’s law did not specify individuals, but it did invoke a scope that went beyond mere removal from one’s native city. It appears to have mandated expulsion *extra omnes terras*—implying, perhaps just rhetorically, that no space in Gratian’s Empire was fit for pseudo-bishops and Manichaeans. Again, if this was the authentic shape of the law, it is noteworthy that its vision

stems from a bishop and received approval from the imperial court. This would suggest ground shared by prelates and magistrates on the nature of religious deviation and function of banishment.⁹⁵

Beginning with the rule of Theodosius I, imperial legislation gave clearer voice to those views. While one must exercise caution in interpreting the language of the imperial laws, it is striking that many of them invoke notions of purity and infection in a way that is decidedly different from the usage of those concepts found in classical authors such as Tacitus and Suetonius. Here, it is not the individuals themselves that are infected, but rather it is the community in which the religious deviant resides. These ideas occur in laws issued over a substantial range. To be sure, late antique Christian thought conceived of pure and impure influences aside from these instances. Pagan sacrifice was believed to harbor pollution.⁹⁶ In the laws of Christian emperors, the Jews too incurred allegations of taint and impurity.⁹⁷ Heresy, however, became the religious contagion par excellence.

As church and society grew gradually more intertwined, latent issues came to the fore. In particular, the presence of divergent practices and beliefs raised questions about the degree of freedom and conformity that could be expected. Rival expressions of Christianity now constituted a contagion that could injure both Christians and the lands they inhabited. Banishment became the apposite means to address that issue. In 381, Theodosius issued a notable law that claimed to remove heretics from Roman society.⁹⁸ It commanded that, “no place for the mysteries shall be open to the heretics.”⁹⁹ Enumerating various stripes of Christian belief regarded as heretical, it continues that “the contamination of the Photinian disease [*fotinianae labis contaminatio*], the venom of the Arian sacrilege [*arriani sacrilegii venenum*], [and] the crime of the Eunomian faithlessness . . . shall be abolished from even the range of hearing.”¹⁰⁰ Should any of those groups fail to amend their ways and embrace the faith of Nicaea, the law commands that this “madness be exiled, driven out from even the city walls themselves, so that throughout the world, the catholic churches be returned to the orthodox bishops all together who adhere to the Nicene faith.”¹⁰¹ The significant aspect has little to do with the law’s effectiveness or implementation. Emperors would issue anti-heresy legislation for generations, none of which caused heterodoxy to immediately dry up. What matters is the social imagination contained in the law. It conceives of the Roman world as a heresy-free zone. The reign of Theodosius continued in this vein.¹⁰² For instance, an “example of a sacred letter” preserved in the Theodosian Code reveals the imperial sentiments posted in Rome in the year 391. The letter declares that the “polluted contaminations of the heretics [*haereticorum polluta contagia*] are to be expelled from the cities and repulsed from the towns.”¹⁰³ It goes on to indicate that there ought to be no place for heretical gatherings. We can see from the way that this law is framed—whether the wording derives from the emperor, his staff, or some other inspiration—the

continuing belief that improper Christianity constitutes a pollution and one that cannot properly exist anywhere in the Roman world.

Those conceptions persisted under subsequent emperors. For one, Theodosius's son Honorius in the wake of the 411 Council of Carthage ruled against Donatist Christians.¹⁰⁴ His law makes explicit its connections between infection, ejection, and religious error. The leadership of those communities, the law mandates, "shall be borne away from the African land which they have polluted with sacrilegious ritual [*ritu sacrilego polluerunt*], each one separately dispatched into *exilium* to separate regions under proper attendance."¹⁰⁵ In like fashion, a constitution issued by Valentinian III (and fragmented into several pieces in the surviving evidence) made pronouncements echoing these very notions.¹⁰⁶ To the urban prefect, it commanded that all manner of religious deviants, including heretics, be "driven out [*exterminari*] from the sight itself of the city of Rome, so that it will not be polluted by the contagion [*ut nec . . . contagione foedetur*] from the presence of the guilty men."¹⁰⁷ It used nearly identical phrasing when instructing the praetorian prefect of Gaul about the handling of members of offending religions, again specifying that they be expelled beyond visual range of the cities in order to protect against the polluting influence of their presence.¹⁰⁸ The notion that religious error would infect a region seems to have been well rooted by this point in the fifth century.¹⁰⁹ Likewise, authorities viewed banishment as the particular means to sanitize infected zones by extracting the pollutant.

In parallel, heresiologists increasingly regarded the opposition as a form of infection or disease, and the true church as a body in need of purification.¹¹⁰ Notably, in the 370s, bishop Epiphanius declared that beneath the apparent dissimilarities, all heresies were "like poisons" and therefore his antiheretical work would be called the *Panarion*, "a medicine chest for those bitten by wild animals."¹¹¹ Christians had been writing polemics against false beliefs for centuries, but Epiphanius's root concept for heresy contrasts with earlier definitions, for instance that of Tertullian. Tertullian compared heresy to a fever—not, however, because it was contagious (a sense that does not seem to have occurred to him), but because both sap one's vital force.¹¹² For Tertullian, a Latin speaker, it seemed that the Apostle Paul had chosen the Greek word *hairesis* (meaning "choice" or "philosophical sect") to describe those in error because such people had exercised individual choice rather than cleave to the church's deposit of faith.¹¹³ While the idea of a false doctrine as a type of poison was not unknown before Constantine, second- and third-century heresiologists seemed to identify philosophical derivation rather than pollution as heresy's basic element.¹¹⁴

Imposing distance between those of sound and unsound faith had long been a staple as well. For generations, Christians had taken for granted that correct and incorrect strains of Christianity naturally repelled one another. However, an anecdote remembered in the late second century by the bishop Irenaeus reveals how substantially Christian standards had shifted. Irenaeus

passes along a story told to him by the second-century martyr Polycarp about the first-century figure John the Evangelist. In this account, John was entering a bathhouse at Ephesus when he realized that inside there reposed a certain Cerinthus, whose views John was imagined to oppose.¹¹⁵ Without even stopping to bathe, John fled the area shouting, “Let us flee, lest the bath-house collapse, because inside is Cerinthus, the enemy of the truth!”¹¹⁶ The apostle John serves in this vignette to represent the ideal action of any Christian confronted with aberrant belief. For Polycarp and Irenaeus, an exemplary Christian would flee from heresy. Wherever the heretic is, that place was off limits; the rest of the world was acceptable. In a similar vein, the late first-century letter known as *First Clement* invokes with its opening words a view of a church’s relationship with its earthly locale. The letter begins, “The church of God inhabiting Rome as a stranger to the church of God inhabiting Corinth as a stranger.”¹¹⁷ It uses the verb *παροικεῖν*—meaning “to dwell in a place where one is not a citizen”—in order to characterize the way that churches reside in physical space.¹¹⁸ The genuine Christian, in this scheme, carries a heavenly citizenship and exists as a stranger or outsider even in places such as Rome and Corinth. Thus it is not heretics, but rather those of true faith who are interlopers in the Roman world.¹¹⁹

Deducing from these small anecdotes a worldview universally held in pre-Constantinian Christianity would press the evidence too far. Admittedly, other heretics and other encounters contain elements of expelling the sectarian from the ground held by the mainline church. Since the New Testament period, Christian communities sought to regulate their membership by expelling the unreformable.¹²⁰ Tertullian, for instance, speaks of the controversial teacher Marcion as having been ejected, along with his handsome donation, from the Roman church and “having been relegated to permanent separation.”¹²¹ However, in the church before Constantine, there is no hint of a sectarian being sent anywhere except out of the immediate congregation of Christians. The church had no expectation that a heretic should vacate, say, Rome; nor could it have.¹²² It was only after Constantine that they sought to remove them from body politic.

A whole vision of the church’s posture vis-à-vis the world is contained in a parable like that of the heretic in the bath-house. Fourth- and fifth-century Christians retained the attempt to impose spatial distance between correct and incorrect believers, but, in their minds, the movement entailed in that dynamic had flipped from the flight of the orthodox to the ejection of the heretic. In the Christian Roman Empire, it became *de rigueur* to mobilize power, spiritual and temporal, in order to cast out the opposition. The significance here goes far beyond the fact that more Christians existed in Constantine’s day than did in Polycarp’s. A fundamental shift had occurred concerning proper Christianity’s relationship with the world. To fourth-century eyes, the world seemed vulnerable to defilement yet eligible for improvement. The heretics, in consequence, must go. This change

reveals the emergence not just of a new ideology concerning heterodoxy but a new stance relative to the social and physical worlds. In part, the study of banishment is significant in that it reveals this revision which occurred over the course of the Roman Empire.

The ejection of heretics contributed in part to Christianity's larger movement to restructure the sacred topography of the classical world.¹²³ Whereas Maximianus Daia wished to convert all of Tyre into a temple, thus suffusing the city with pagan sacred space, Christians did not intend to make the entire Empire into a Christian holy site. Provinces were space that emperors and bishops did not want to see infected by alternative (and therefore corrosive) strains of Christianity. At its heart, this ideology concentrated on the sectarians. To borrow a phrase, it signals the rise of the unholy man in late antiquity.¹²⁴ Such a person ideally belonged to the void, not to the space surrounding a temple precinct or city boundary. As such, there was an acute disjunction between the social vision and actual effect of the anti-sectarian laws. Roman law could not, after all, teleport nonconformists into oblivion, yet this is precisely what it sought to do in the realm of the imagination. Banishment transported sectarians to inconvenient destinations, but nearly always ones within Roman territory—locations where heretics could be supervised and even enticed to capitulate.¹²⁵ Heretics were excluded in principle from all corners of the Roman world but in practice from the major cities and their environs.

When the ideal of regional vulnerability to heterodox infection fused with the secular weapon of banishment, it produced an important precondition of the mentality of Christendom—that is, the social-religious vision which conceived of a church coterminous with society itself and which later characterized Byzantium and medieval Europe in various ways.¹²⁶ Of course, those civilizations lay centuries in the future. It would take many generations to develop the inchoate germ exposed by the phenomenon of sectarian banishment. When those Christendoms did develop, they were the result of many complicated forces, social and ideological. However, the banishing of recalcitrant sectarians singles out one aspect in that process. The mentality that underpinned it stood in a distinctively late antique moment: it drew from a heritage of Roman administration and coercion even while it heralded a society that was prepared to see the physical and political worlds as Christian rather than Christians as aliens in Greco-Roman space. It was no longer the case, as it was for the author of *First Clement*, that Christian communities were strangers in an inhospitable land. Now, heretics and schismatics had become the sojourners who did not belong.

That emperors would have oppressed clergymen with banishment, instead of executing them, has struck modern scholars as a historical development in need of an explanation. Some have seen in this imperial strategy the impact of Christian social ethics, which would prohibit the church from spilling blood.¹²⁷ Others have detected the legacy of early Christian martyrdom and the power of Christian discourse to paint any later secular lord

as a persecutor.¹²⁸ These views have much to recommend them. This study, though, reveals that emperors and magistrates used banishment not just because bishops, their discourse, or social teaching required them to, but because it was the most exact measure to realize the burgeoning worldview. Authorities relied on banishment because they chose to; it more than any other measure in the Roman arsenal expressed their vision of the realm and the government's ability to serve it by rehabilitating the heretic and sanitizing the body politic.

3 The Authorities

This chapter examines the entities within later Roman society who possessed the authority to eject, and what types of banishments each could pronounce. An investigation of this sort must lean heavily upon the legal literature of the period. In fact, the surviving imperial legislation is substantial enough to expose many of the standards and expectations associated with governmental offices in this era. By its very nature, however, this form of evidence suggests which magistrates hypothetically might have taken an action that involved banishment. It does little to confirm what transpired in fact. To see magistrates in action, it is very often necessary to turn to Christian sources, almost always written in the midst of a church controversy. While such sources arise in complex circumstances and carry passionate opinions, there are good reasons for incorporating them into a history of later Roman banishment and for extrapolating from them to secular cases. At a minimum, a magistrate who banished clergymen was one who could banish in at least some situations. Further, aggrieved ecclesiastics would have had ample incentive to preserve the memory of hostile actions taken by Roman authorities. It is also true, on the subject of banishment, that ecclesiastical authors rarely indicted secular authorities for overstepping the limits of their earthly position. Impugning a magistrate's orthodoxy or criticizing him for his involvement in church affairs were commonplace, but these allegations are of a different nature from one that suggested he exceeded the norms and privileges of his office.

In Rome's earlier history, banishment could result from many legal procedures, such as decrees of the Senate (*senatus consulta*), that had fallen by the wayside at the dawn of the Later Empire.¹ Most especially, the standing jury courts of the later republican and early imperial era (the *quaestiones perpetuae*) had given way to a new form of trying suits in which a magistrate heard cases with wider discretion.² This, and other procedures, form the subject of the present inquiry in order to flesh out the authorities who would have condemned others to banishment. The legal evidence often reveals what actions emperors and their courts expected magistrates to take in given circumstances. Matters would have been more confounding for actual plaintiffs, however. It is frequently unclear, to us and even

to the later Romans themselves, which court had jurisdiction over a given case. The principles of Roman jurisdiction could and did lead in different directions. A first premise assumed that the court competent to hear a case was the one which held jurisdiction over the accused; the accuser therefore had to seek out the relevant geographic or social magistrate in order to bring forward his or her suit. A second premise postulated that certain offenses ought to be tried before specific courts. The logic of this latter principle also maintained that officials had the authority to patrol their zones of influence.³ In practice, these conflicting sensibilities left plaintiffs often unable to know with certainty which court or magistrate had ultimate jurisdiction.

I THE EMPEROR

Matters are clearest at the summit of governmental power: for the emperor himself, the authority to banish is unambiguous. Part of being an Augustus meant the privilege and obligation to send people into banishment. Executing the imperial office effectively meant knowing when and how to utilize this device. Emperors were not part of a particular branch or bureau, but the last authority in the realm. As such, they had to punish, pardon, and cajole successfully. When others wished to banish a person (or recall that person from their sentence), the definitive place to turn was the Augustus. As the court of final appeal, he made regularly decisions on whom to eject.

The emperor's responsibility as the dispenser of punishments was an inalienable aspect of the position. Though no legal basis existed for his making law, the emperor's letters and general edicts had the force of law.⁴ Establishing that the emperor could banish others poses no difficulty, but we search in vain for the legal proceedings that justified a great many of the extant banishment cases. Surely, contemporaries could postulate justifications for the finality of imperial fiat, and emperors too felt the limitations imposed upon them by custom and legal framework. It remains, nevertheless, that the emperor's decree had legal force even if it arose apart from the processes of civil and criminal justice.

In the preceding chapters, we have encountered examples of emperors prescribing alternate forms of banishment. For instance, Arcadius's judgment on Eutropius called for the grand chamberlain's relegation and Majorian's verdict upon Ambrosius demanded the adulterer's deportation.⁵ Outside influences steered the decision on Eutropius's fate; still, the outcome stood as an imperial decree—it was the emperor's authority, and no one else's, that formally condemned Eutropius.⁶ At least in Eutropius's case, the emperor served as the judge in first instance.⁷ In addition, emperors could serve an appellate function.⁸ That is, the imperial office might decree for banishment (of any sort) either on appeal from a lower court or on a

case heard directly by the emperor himself. Episodes which we have already encountered provide evidence apart from the legal literature of the emperor banishing offenders as the judge of first instance. Daia's treatment of Valeria was certainly not the result of an appeal and may have employed legal formalities as a pretense.⁹ Julian's handling of a rape suit with *relegatio* has been introduced already as well and offers a clearer illustration. In that case, the victim's parents took their claim directly to the emperor.¹⁰ Earlier in his history, Ammianus describes the manner in which Julian's predecessor, Constantius, handled the supporters of Magnentius, a usurper. The historian mentions one victim by name (Gerontius), informing his readers that Constantius condemned him to exile.¹¹ He relates that others who were supposed to have supported Magnentius were sentenced to death, property confiscation, or condemnation to an island.¹² His major contention in this passage is that the emperor's fear of others grasping power had become an illness. Along the way, Ammianus reveals that Constantius himself settled the fate of those accused of treason, independent of lower courts and their possible jurisdiction. In ecclesiastical matters too, some emperors had been known to pronounce sentences of banishment upon offending bishops. Constantine directed several bishops in banishment. For instance, at various points in his career, he sent Athanasius to Gaul and the bishops of Nicomedia and Nicaea to distant areas.¹³ However, the circumstances involving Constantine and Athanasius were atypical in that the emperor unilaterally directed the bishop to Gaul.¹⁴ The standard in the rest of our period was for an imperial authority (typically an agent such as a count or duke) to operate in concert with a council of bishops.¹⁵ In other words, emperors themselves may have laid down many injunctions against religious violations or lent their secular authority to the decisions of councils (as we have seen in the previous chapter), but it was far less common for an emperor to pronounce judgment on a notable clergyman directly.

The affinities between emperors and the phenomenon of banishment ran deeper than this, though; just as significant as the emperor's own decrees of banishment were his directions to others on the subject. To understand why emperors banished, refrained from banishing, and commissioned lower officials to do so, we must consider the larger project in which imperial courts were engaged—namely, maintaining a semblance of stability in the Empire. Imperial interests required both the appropriate penalization of criminals and the calculated maneuvering of governmental servants. In general, it behooved emperors to be clear, but not too clear, about which magistrates could take which actions. A slippery and shifting policy enabled rulers to ensure the continuing functionality of the realm without allowing excess power to accrue in any particular office. When it comes to banishment in particular, emperors certainly held the unquestioned power to subject others to banishment, in any of its forms, but the trick was to delegate power in ways that supported short- and long-term imperial objectives. It required a balance between delegating coercive authority and retaining exclusive

privileges. As we turn from the emperors themselves to the other magistrates in the Roman government, the laws begin to paint a picture of regimes urging their officials to banish in exactly the right degree. It is important to recall that every sentence which directed a person into banishment could potentially be reversed. The final chapter of this book will argue that rulers could hope to receive public acclaim by pardoning an exile. In short, then, the more that emperors could compel subordinates to use the tool of banishment, and so to assume the less popular task of chastisement, the more opportunities existed for higher officials to extend clemency.

II LOWER MAGISTRATES

Emperors (or their administrations) displayed their power and exercised their judgment not only by direct decree but by delegation.¹⁶ The magistrates who condemned others to banishment did so because their station demanded it and because existing statutes as well as emperors (past and present) bade them to do so. Investigating this dynamic takes us into the thicket of the later Roman bureaucracy. It is true that in this period the areas of governmental administration were not well delineated.¹⁷ Still, we can make out three branches of the later Roman government: one (the provincial) consisting of praetorian prefects, vicars, and provincial governors, another (the central) comprised of masters, dukes, and counts, and a third (the urban) centered in Rome and Constantinople. Within the central branch, two separate stems existed: the *comitatus* (the travelling retinue that surrounded the emperor) and the military.¹⁸

The duties and powers of late antique officials are often opaque to us, in part because matters were ambiguous even for those involved. The rationale for this murky state of affairs has to do with imperial strategies for managing subordinates.¹⁹ To the emperors, the task of ruling the Roman world was one so vast that it required the granting of sufficient authority to others in order to make them effective. Conversely, it was also necessary to deny all parties a level of power that could make them a threat. In this delicate balance, redistributing powers became a key strategy, with the result that officials could not be too certain about what their post entitled them to do. Accordingly, looking for an absolute line between those officials who held this power and those who did not can be a search in vain. Certain offices, such as the praetorian and urban prefects, must have needed it incessantly in order to manage their obligations. Whether or not they actually exercised the right is another matter, but to rule effectively they had to be seen as holding it. Other officers, such as the count of the privy purse, probably did not have a standing right to banish whomever they wished. Rather, they were granted the authority to banish individuals who endangered the interests of the general populace, or of the emperor, in ways that came under that official's sphere of influence.

The surviving legal evidence is of service in determining the ranks of offices other than the emperor who could banish. The constitutions rarely speak to a specific situation where an official is told to expel a particular person (as was the case in Majorian's ruling on Ambrosius). Rather, they communicate to intermediate administrators the standards to apply to future cases of infraction, should they arise. As a result, the laws reveal something of the job description for particular posts in the imperial government and thereby point out what officers gave which sentences as part of their duties. Of course, the laws that survive from the period are only a fraction of the actual total. Behind the instances known to us there must lie others in which the same officials acted in similar ways. The fact that the emperor charged them to banish at certain times suggests that the lower magistrates exercised this authority at other moments as well. Officials probably had to use their discretion when murky cases arose, and the known laws could have helped to guide their judgment.

On the surface, imperial legislation gives the impression (no doubt by design) that the emperors themselves were combating certain practices through these pronouncements. However, such legislation obliged the official receiving it to make a similar proclamation, indicating the proscribed behavior and perhaps the consequences for its continuance. Evidence survives of that process, normally when it concerned a matter of religion. In the culmination of the Pelagian controversy, for example, we know of both the directive sent from Honorius's court to Palladius, the praetorian prefect of Italy, proscribing Pelagius's teachings and Palladius's edict warning the populace that anyone, cleric or lay, who adopted those views would be liable to the loss of property and permanent *exilium*.²⁰ The prefect's edict speaks of such infractions coming before a judge (the edict uses the term *iudex*, which became the common description of a provincial governor). Thus the imperial rescript produced a prefect's proclamation which in turn promised action from governors, if infractions ever came before them. The particular offices and their powers in question will be taken up shortly. At present, what matters is the process, even in outline, which the documents reveal. Even in situations for which we do not have evidence of the lower magistrate's proclamation or implementation, events would follow a similar pattern. Emperors made demands on their subordinates (which we know more about) who themselves disseminated the instructions to the populace and their own subordinates (which we know far less of).

The magistrates who likely dealt the most with banishment would have been the provincial governors.²¹ For the period prior to the rule of Diocletian, the opinions of the jurists reveal that a provincial governor, who at that time held greater authority than his successors would in the years after the Tetrarchy, held limited authority to banish. Ulpian states the matter pointedly. On one hand, he asserts that governors did not possess the independent right to deport persons to an island, but that the urban prefect did.²² On the other, he states that, "governors are able and wont to give

those who are relegated [a certain number of] days to depart; and indeed it is the custom to pronounce in this way, ‘I relegate him from that province and its islands and he is bound to go forth before that day.’”²³ In short, Ulpian’s discussion presumes that governors had it in their discretion to relegate though not to deport. Although this formulation limits gubernatorial power, it does not firmly identify that limit or explain the reasons for it. At times, scholarship accepts Ulpian’s remarks as sufficient evidence for the claim that governors could not deport; this is to overlook the difficulties it causes.²⁴ At bottom, the problem is that governors continued to exercise a very high degree of power over the guilty, so depriving them just of the ability to deport has no obvious purpose. Ulpian himself discusses the manner in which governors were allowed to sentence individuals to death.²⁵ The governors’ losing the authority to deport cannot have been part of a grand program to clip their wings. Several possibilities might account for the oddity. First, Ulpian might simply be wrong when he says, “there is no doubt that a governor is not able to deport.”²⁶ Perhaps the jurist doth protest too much. Second, he may have overstated the degree to which governors could not deport. His comment as preserved in the Digest mentions *deportatio* pure and simple, but originally he may have intended to say that governors had lost the ability to deport individuals to an island. A geographic limitation, this possibility would make clear sense—not all governors had islands in their purview, thus deporting to islands would have been a way of extraditing their troublesome criminals into someone else’s territory. The difficulty with this explanation is that nothing in the source suggests it. Third, Ulpian might have assumed that only upper-class offenders could receive a sentence of *deportatio*. In that interpretation, Ulpian would be expressing a limit on the types of citizens liable to the governor’s discretion as much as the boundaries of the latter. The question of class forms the subject of a later section; at present, it will suffice to note that Ulpian may well think this way but nothing in his extant remarks requires this.²⁷ Ulpian leaves such questions unanswered. Given these complications, a realistic reconstruction must make allowances for the possibilities that governors either retained a more substantial right to deport than Ulpian suggests or that some of them issued sentences of *deportatio* even though they were not technically allowed to do so.

In addition, the position of the governor substantially changed in the period after Ulpian’s commentary. In the high Empire, governors presided over a large territory, had military and judicial authority, and served directly under the emperor. As part of his reforms, Diocletian altered the role of the governor by making each one responsible for administering justice in a much smaller geographical area by establishing levels of administration between governors and the imperial court. As the result of this jurisdictional reframing, governors lost certain obligations but presided over suits in the provinces that involved a great variety of cases, both criminal and civil. In the previous centuries, a standing jury court (*quaestio perpetua*)

heard suits that involved a particular type of offense (for instance, forgery or poisoning), but these had been supplanted in the Empire by *cognitio extra ordinem*.²⁸ The new process was headed by a single governor acting as judge (*iudex*) instead of a jury. The role of judge, as the dispenser of justice, became governors' primary obligation. Instead of traveling through the province on his assizes, a governor tended to remain in the provincial capital, requiring provincials with a grievance to bring their suit to his court.²⁹ Key to this process was an accuser who brought the charge against the defendant; although there did exist a selection of offenses so galling that a governor could pursue them independently in the name of peace-keeping, the standard format involved the confrontation of the accuser and the accused.³⁰ Governors, sitting on the tribunal, would have had the advice of their staff (which would likely have had more legal training than the *iudex* himself); the governor/judge enjoyed substantial latitude in his verdicts even though these fell within an increasingly standardized framework.³¹ Though governors were in position to hand out the majority of banishment sentences, the governor himself would have mostly been passive in the banishment process. When litigants brought a suit before him, he could have decided it in favor of relegation. Ordinarily, the protocol of Roman justice ensured that he would not have taken independent action.

However, the surviving laws offer only a fragmentary picture of the governor's capacity to banish. Little of the legislation in Theodosius's or Justinian's Code addresses governors, and this paucity prevents us from forming a clear picture of how imperial courts viewed this office. What little we do have gives an enigmatic impression.³² In one of Constantine's laws, the emperor commands Catulinus, the proconsul of Africa, to apply a new, harsher standard to cases of violence. Now, the emperor states, culprits are to suffer death rather than *relegatio* or *deportatio*.³³ The proconsul (a governor of a senatorial province) was a rare office in the later Empire, but one administratively on par with other governors. Constantine's law apparently presumes that they could have been applying *relegatio* and *deportatio* to certain offenders.³⁴ Certainly, the governor's apparent power over life and death was one more absolute than the ability to impose any variety of banishment, so Constantine strikes the peculiar position of expecting governors to put criminals to death but not to deport them. Later in that century, a different law specified some of the banishing capabilities of the *consulares* of Campania. In the classical period, Campania (a stretch of southern Italy along its western coast) was not a province. However, in Diocletian's restructuring it became one within the Diocese of Italia. Constantine gave the title *consularis* to the governor of this province, as well as others.³⁵ Despite the difference in nomenclature, the directive for Campanian *consulares* illustrates expectations that this emperor had for the governors serving at approximately the same level. The legislation was issued in 378 by the court of the emperor Valentinian II, who was just a boy at the time, and mandated that *consulares* "shall not exercise the right of

relegation outside their province [*neque extra provinciam suam ius relegationis exercent*].”³⁶ This law seems to limit the range of where a *consularis* (or other governor) could send a person, but it also confirms their right to relegate.³⁷ Occasionally, some non-legal evidence reaches us indicating that later Roman governors acted as authorities who banished individuals under their jurisdiction. The peculiarity inherent in governors’ holding not the right to deport but the power to put others to death likely stems from convoluted legal developments. The evidence from Ulpian, indicating that governors in the late second or early third century had lost the right to deport, did not make plain the original intention behind curbing the governors’ authority. This step may have had as much to do with maintaining territorial compartmentalization as with curbing the governor’s power over provincials. Conversely, Constantine and others expected governors to deal summarily with troublemakers, by putting them to death if necessary. In sum, the extant evidence, while scant, is enough to warrant the conclusion that provincial governors held onto the authority at least to relegate locally, even though the right to deport to an island (and perhaps to deport generally) was denied them. These magistrates used banishment as part of the peace-keeping measures in the provinces. It was one tool available to those responsible for ensuring civic order.

Above the provincial governor, in the later Roman bureaucracy, stood the vicar. Vicars governed over a territory known as a diocese, which was constituted by several provinces (although not every provincial governor reported to a vicar).³⁸ Because vicars served an appellate function, a case settled by a governor might go on appeal to the vicar.³⁹ Further, emperors could communicate their standards of justice and punishment by sending notice to a vicar, who would in turn transmit that declaration to the governors in his diocese. The legal evidence is much fuller for this office. In legislation ranging from the time of Constantine to Honorius (early fourth century to early fifth century) and in both the eastern and western portions of the Empire, emperors instructed vicars to banish if a particular infraction occurs; these violations could involve violating the chastity of a female ward, making counterfeit coins, bringing an accusation under someone else’s name, and deliberately holding the same public office more than once.⁴⁰ It is also plain that imperial authorities expected vicars to use the full range of banishment options as the laws concerning chastity, office holding, and accusations charge the vicars to employ *deportatio* against offenders. If we work from the deduction that governors in the later Empire could only relegate, these laws appear to be directives that the emperors intended for the vicars to implement themselves rather than to disseminate to the provincial governors beneath them.

Finally, at the summit of the provincial bureaucracy was the praetorian prefect, the administrator second only to the emperor and one who exercised broad powers in areas such as justice and finance. There were only a few who occupied this position: the later Empire had three praetorian

prefects for most of the fourth century and added a fourth by century's end.⁴¹ The praetorian prefects served in many senses in the emperor's stead. In particular, prefects served a vital appellate function, not only receiving petitions from the courts of vicars and governors but issuing rulings that were themselves inappellable.⁴² Most of the Theodosian Code's laws stipulating banishment as a penalty are directed to the praetorian prefects. In one sense, this is unsurprising, as the majority of the Code's legislation addressed praetorian prefects.⁴³ We should therefore expect that the preponderance of banishment laws would fall under their purview.⁴⁴ Laws instructed praetorian prefects that banishment ought to be imposed in a range of situations, including divorce, astrology, diverting the Nile, tarrying too long in port and, by the end of our period, religious infractions such as heresy, circumcising a Christian, and pagan sacrifice.⁴⁵ This fact alone does not reveal how the laws came about or the ways that they were implemented. Unbeknownst to the modern reader, the laws could be responses to a praetorian prefect dealing with just this issue. Alternatively, the mandates could be general instructions that the praetorian prefects were expected to pass along to their subordinates.

Importantly, imperial direction to praetorian prefects could also require banishment as the consequence for derelict administrators beneath the prefecture. Certain laws issued in the later stages of the fourth century show this clearly. One, promulgated by Theodosius I in Constantinople in 380, directed Eutropius, the praetorian prefect of Illyricum, to exile governors who delayed justice and allowed the accused to languish in prison.⁴⁶ In like fashion, a law laid down five years later by the court of Valentinian II in Milan commanded Neoterius, the praetorian prefect of Italy, to deport the staff of a provincial governor who permitted a miscarriage of justice and to fine the governor who oversaw it.⁴⁷ Quite clearly, mandates such as these were not meant for the praetorian prefects to disseminate to governors so that they in turn could enforce it; rather, these are instructions for prefects to impose upon those subordinates. As such, they indicate the ways prefects themselves would be expected to banish. A number of laws charge the praetorian prefects with using both *relegatio* as well as *deportatio*.⁴⁸ Because the praetorian prefect carried such substantial authority, in the course of normal affairs, the office would have had to utilize the full range of banishments. Occasionally, a non-legal source will also allude to a praetorian prefect banishing others. For example, in Philostorgius's history, written in the middle of the fifth century and surviving only in an epitome, the author relates that praetorian prefects of the Orient twice banished the theologian Eunomius. The first, Auxonius, did so because Eunomius had been accused of lending support to an eventual usurper, Procopius.⁴⁹ For this, Auxonius directed Eunomius to Mauritania in North Africa. However, according to Philostorgius's account, Eunomius hit upon a bishop favorably inclined to his position who was able to obtain imperial pardon while Eunomius was still in route.⁵⁰ In any event, Eunomius had returned and was lingering

in his home territory when Auxonius's successor Modestus took notice of him. Philostorgius indicates that Modestus directed Eunomius to the island of Naxos on a count of raising disturbances within the church and society at large, without formally trying him.⁵¹ Philostorgius's account is too spare and problematic to offer much insight into the processes that could have led those prefects to take action against Eunomius, though it reads most easily as though Auxonius himself received complaints about Eunomius and therefore acted as the judge in first instance. For Modestus's part, Philostorgius presents matters as though the prefect invoked his general privilege to insure civic stability in order to banish Eunomius instead of hearing the case in a formal trial. In all events, such information does not radically alter the composite created by the legal literature, but it does confirm that this composite was plausible to those who lived under later Roman rule.

Imperial legislation also indicates that other officials had the duty and prerogative to banish. A small number of the relevant laws are written to officers in the central administration and in particular to the urban prefect. During the high Empire, this office supplanted the Senate as the preeminent peace-keeping body in Rome (the city).⁵² A generation after Constantine rechristened Byzantium as Constantinople and declared it a second Rome, it too claimed an urban prefect.⁵³ We have encountered some of these laws in the previous chapters as they related to matters of religious purification.⁵⁴ To the evidence already surveyed, a particularly illustrative case must be added. In 421, the western emperor Constantius III made efforts to ban followers of Pelagius's doctrine, specifically the Pelagian ringleader Caelestius, from Rome. The letter charges Volusian, the urban prefect, to seek out and expel anyone of this mentality.⁵⁵ Volusian's edict forbidding Caelestius's presence (as well as the presence of those who would hide him) also survives.⁵⁶ While the prefect's edict suggests an air of passivity, the mandate from Constantius clearly envisions Volusian making an active search for Pelagians and summarily removing them from the city. Additional legislation sent to urban prefects also invokes wide-ranging issues such as forgery and tomb desecration.⁵⁷ Governing Rome or Constantinople must have required the authority to eject troublemakers when necessary, as had the urban prefect Leontius in the affair of Peter Valvomeres.⁵⁸ In addition to settling on a particular decree of banishment (such as *deportatio* to an island or temporary *relegatio*) as the result of a criminal or civil trial, urban prefects must have made use of civic expulsion as part of their powers under the rubric of *coercitio*. The scope of the expulsion often would have been local, and the event would not have affected aspects such as citizenship or property.

The military, while part of the central component of the Empire, plays virtually no role in the discussion of those who decreed banishment. We can glean that when something of the sort did occur, it seemed peculiar to observers. Ammianus relates an episode in which his own leader, Ursicinus, master of the horse, doled out punishments that included the exiling of a father and son, the Apollinares.⁵⁹ The historian implies that the master

of the horse presiding over a treason trial was strange. He indicates that Ursicinus felt reluctant to accept the position as he was a military man, not a forensic.⁶⁰ It seems that this occurrence was possible but atypical. The greater evidence within the central government lies with the *comitatus*, the body of officials that travelled along with the emperor. For example, one of the laws issued under Arcadius directed against heterodoxy instructed the master of offices that anyone who permitted a heretic to join the imperial service was to be stripped of his position and ejected from the city.⁶¹ Since the master of offices oversaw entry into the imperial service, it was logical to expect him to use the threat of banishment as a means to safeguard that domain. In similar fashion, laws directed to the count of the sacred largess instructed him to use banishment in matters that would have fallen under his purview. The emperor Theodosius I instructed Palladius, who occupied this position, that anyone who granted or received a loan from the imperial largess was subject to permanent *deportatio*.⁶² The guiding philosophy in these instances seems to be that an official within the *comitatus* who had an important field of responsibility was given the authority to banish as a tool to police that sphere and protect it from insidious forces, such as heretics or moochers.⁶³ In such cases, the official had the right to banish those who violated the rules under his jurisdiction, but not others. Unlike, say, the praetorian prefect, their banishing ability was limited to their area of oversight. The general populace would thus not have been subject to their discretion.

Along with the officials specifically designated by laws in the Code, other posts acquired the right to banish in particular circumstances. Most often, this occurred when the person occupying that position achieved special or unusual power. Ammianus indicates that Constantius charged his state secretary (*notarius*) Paul, nicknamed “the Chain,” and the count of the Orient, Modestus, with rooting out treason in Egypt. In the wake of certain inquiries to an Egyptian oracle coming to the emperor’s attention, Constantius (Ammianus states) bypassed the praetorian prefect because of his kindly nature and granted Paul the power to try cases as he wished.⁶⁴ While many were tortured to death, some were given sentences of banishment instead. One, Simplicius, received a sentence that Ammianus calls *lata fuga*, which is the same phrase the jurist Marcian had used to describe the variety of *exilium* that forbade all places save one.⁶⁵ If Ammianus used this technical phrase deliberately, then it would mean that Simplicius had been condemned to a specific destination. Another of Paul’s victims, Parnasius, was dispatched into *exilium*.⁶⁶ Above all, Ammianus implies that the praetorian prefect would have been the natural choice to pursue these matters and that a secretary and count only did so at the emperor’s discretion. An emperor could also assemble a tribunal to conduct particular trials which could end in banishment, as we learn from Constantius’s successor Julian. The so-called “Commission of Chalcedon” constituted under Julian would be an example of this type. When, in 361, Constantius died en route to civil war, Julian was left as sole ruler of the Empire but in an unstable political position. There remained many still

loyal to his cousin, especially within the army. To purge the administration of dangerous ministers and show deference to the army, Julian set up a tribunal, constituted mostly of military men, to judge his enemies.⁶⁷ This commission put some to death (including Paul “the Chain”) while banishing several others.⁶⁸ As the legal basis for this purge is ambiguous, the event reads as an act of bald revenge.⁶⁹ The actions of the commission still reveal that upper-level officials deputized by the emperor effectively acted with his authority over life and death. Banishment, as a punishment in Roman law that grew up as an alternative to the death penalty, was therefore included in this domain.

The Senate could also serve as a body commissioned to give such a sentence, but only, it appears, on rare occasions, as when the emperor entrusted a case to its purview. The position of the Senate had changed substantially by the time of the later Empire, much of its role having been taken over by the urban prefect.⁷⁰ It did, however, retain jurisdiction over those of the senatorial class (and of the equestrian). Ammianus also relates the case of one Hymetius, who went before this body. Hymetius had been proconsul of Africa when a food shortage struck the Carthaginians in the late 360s. He sold supplies from the storehouses to the starving locals and, once the crops had replenished the supplies, restored all that he had taken. Additionally, since he had bought low and sold high, he made a profit, which he then sent to the emperor’s treasury. While this business should seem laudable, Ammianus implies that it in fact attracted the imperial attention because Valentinian suspected Hymetius of skimming the profits. Once Hymetius was placed in the spotlight, it emerged that he had prevailed upon a soothsayer to offer a sacrifice for greater clemency from the emperors. It is a classic piece of Ammianus’s dark irony that Hymetius’s philanthropy and prayers for mercy almost did him in. In any event, the accused gleaned that his trial before the urban prefect and vicar of the city was likely to end in death, so he appealed to the emperor. Rather than settling the case himself, however, Valentinian referred the matter to the Senate, which banished Hymetius to an island.⁷¹ As a proconsul, Hymetius seems to have been of this status. The Senate may well have been loath to condemn a person of senatorial rank to death, preferring to reinforce a trend of clemency for higher status offenders. Perhaps the Senate felt encouraged to settle on this decision because the emperor had explicitly authorized it to come to a verdict. Beyond this moment, little suggests that the Roman Senate would normally have banished people as part of its operations. Its counterpart in Constantinople probably behaved in like fashion and passed an occasional sentence of banishment if a case involving an upper-class citizen came before it.

III NON-MAGISTRATES

Thus far, the examples considered have been those who officially possessed, temporarily or permanently, authority to expel others. Another category,

however, must be acknowledged: those who inflicted banishment though they had no formal authority to do so. In a rough way, the urban populace should be considered one such entity. Repeatedly in the fourth and fifth centuries, the citizens of Rome voiced their displeasure by taking actions that resulted in the expulsion of city magistrates. The key issue in these episodes was usually the food supply.⁷² In 375 Lucius Aurelius Avianus Symmachus, the former urban prefect, fled from Rome in the face of an angry population, as did his son, the consul Quintus Aurelius, in 398.⁷³ In both cases, the city's inhabitants acted as a sort of authority and one that, though crowds' intentions are notorious difficult to divine, may well have held the aim of expelling the local magistrates. At first blush, a magistrate suffering expulsion at the hands of the citizen mob seems ironic: the person ejected is the one who, in theory, ought to keep the peace by using tools such as banishment against the throng. However, popular actions did not always represent the breakdown of order or the frenzy of an irrational mob.⁷⁴ They instead constitute evidence of popular participation in the political process. Incidents of this kind resemble "acclamations" (organized shouts by large groups to convey a particular message), in particular the acclamations of the early Empire that brought attention to magisterial malfeasance.⁷⁵ By the time of the later Empire, demonstrations had become part of the urban fabric and even achieved "a quasi-constitutional position."⁷⁶ Thus, banishing the Roman magistrate was not a sign of anarchy, but looks rather like a deliberate process of grievance airing, akin to a check and balance. Whereas the magistrate could expel citizens when the populace violated certain rules, the citizens could in turn use expulsion as the means to manipulate the magistrates.

These actions rarely resulted in physical violence against the unpopular magistrate, suggesting that they harbored an important aspect of restraint. Nor did they spiral into truly treasonous proportions, as was the case in Antioch during the infamous Riot of the Statues.⁷⁷ Rather, they served the same function that other banishments did: they illustrated one party's desires and used dislocation as a technique (less drastic than corporal punishment or death) of coercion. What is more, the Roman people acted, or at least attempted to act, as agents of recall in other cases of banishment, thus showing that they understood themselves to be potential participants in the affairs of banishment.⁷⁸ While these occasions might be ejection without a formal basis, they nevertheless indicate the full range of entities that could bring about forced ejection.

At the margins of the authority figures qualified to banish sits the Christian bishop. Constantine had authorized bishops to render justice in a process known as *episcopis audientem*.⁷⁹ This emperor, in fact, placed such trust in the bishop's court that anyone could transfer a suit to it and its rulings were inappellable.⁸⁰ I am aware of no source indicating explicitly that a bishop banished a malefactor under that procedure. Because the bishops acted less as judges than as arbiters, seeking resolution between the two parties rather

than judgment, the types of cases before them may not have been the sort that called out for the punishing of one party.⁸¹ It remains a feasible possibility that at some point in the later Empire, certain bishops ruled in favor of banishment. The punishment was pliant enough to suit many circumstances and, in grave situations when a death sentence would have been a typical result, would have carried a sense of clemency. If banishment did ensue from a bishop's court, it could hardly have been the norm.

Scattered evidence indicates that the bishops of major cities also might cause the expulsion of individuals or groups by extra-legal means as well. For instance, the emperor Julian suspected George, the bishop of Alexandria, as the authority behind the banishment Zeno (a doctor of that city).⁸² Athanasius credits George as well with the banishing of many non-Arian Christians in Alexandria and the bishops of Egypt and Libya.⁸³ On some occasions, our sources depict bishops affecting the ejection of certain religious groups from their cities. For instance, in his discussion of Alexandria's history in the fifth century, Socrates records that bishop Cyril expelled the Jews from the city.⁸⁴ There are certain logistical difficulties with Socrates's claim, but at a minimum, the account indicates that fifth-century observers could imagine a formidable metropolitan bishop affecting the removal of unwanted groups from a city.⁸⁵

From the western Empire, the *Liber Pontificalis* describes popes Siricius, Innocentius, and Gelasius (late fourth to late fifth centuries) ejecting heretical groups from Rome.⁸⁶ Of Siricus, pope at the end of the fourth century, the text indicates that he uncovered Manichaeans "whom he deported into *exilium*."⁸⁷ A century later, when further Manichaeans came to light, Gelasius likewise "commanded them to be deported into *exilium*."⁸⁸ Between these two events, the *Liber* provides a tantalizing clue. Describing the tenure of Innocentius, it comments that this pope uncovered Cataphrygians, whom he "relegated into *exilium* in a monastery."⁸⁹

Questions surround both the phrasing and the principle participants. In all three cases, the text combines verbs carrying legal implications (*deporto* and *relego*) with the noun *exilium*, which begs questions of which sort of condition applied to the condemned groups and how the author of the *Liber* intended the vocabulary of banishment. I consider it most likely that the author has used the terms colloquially rather than in their technical sense. The verbs would then express the idea of transport rather than a formal sentence. *Exilium*, under this interpretation, operates in its general sense. Nothing prohibits this rendering of the passage, and construing the passage thus alleviates both the tension between contradictory terms and the logistical difficulties of popes themselves uncovering and condemning heresy before imposing sanctions against it. Rather, the sense of all three passages seems to be that the popes simply cast certain factions out of the city, not necessarily that the pontiffs made use of the categories of Roman law to do so.

However we construe the terminology of punishment, we must still grapple with the text's description of those banished. The mantel "Manichaean"

had become one that served to tar opponents with the quality of an unpardonable sacrilege.⁹⁰ The “Manichaeans,” in other words, could well have been Christians of an ascetic or rigorist stripe who ran afoul of the Roman church hierarchy. “Cataphrygian” was also a problematic category. It describes the Christian sect, ordinarily referred to as the Montanists (they themselves called the movement the “New Prophecy”), founded in Asia Minor and given to rigorism and ecstatic utterances.⁹¹ We know very little about the fate of the movement after the third century and the existence of Montanists in the western Empire is in fact not attested apart from one law in the Theodosian Code and this passage in the *Liber*.⁹² It is far from certain, in other words, that the individuals whom Innocentius expelled were authentic Montanists (that is, that they understood themselves as part of the New Prophecy or expounded ideas derived from Montanist tradition).⁹³ Once more, precise identification of their identity is not possible. It is, however, noteworthy that the “Cataphrygians” were directed to a monastery and that their being enclôstered constituted their *exilium*. If Innocentius had truly wished to separate this group from communion with the faithful, then he should not have placed them within a religious house. There they would have been detached from the main Roman community but still embedded within the church. Their being directed to a monastery gives modest support to the thesis that these “Cataphrygians” were Christians whom Innocentius deemed wayward—disturbing enough to dislodge yet not pernicious enough to excommunicate. The composite picture, although it remains full of holes, reads as though the purpose of these ejections was religious housekeeping throughout. Whether or not the nomenclature of heresy accurately described the banished, it points unambiguously to errors of a specifically Christian nature.

The text quite clearly ascribes agency to the bishops of Rome themselves, which poses further difficulties. The *Liber* presents matters as though the popes themselves evicted blocs of the city’s population. These may well be cases of the pontiffs presiding over the church in Rome and, if necessary, prevailing upon secular authorities to obtain a certain group’s banishment. For various reasons, it appears that the expulsions under these bishops derived from trends other than an increase in the pontiffs’ administrative or jurisdictional prestige. Because the descriptions in the *Liber* are so scant, we must leave room for the possibility that the source has elided events.

Certainly, for bishops less prestigious than the ones occupying the sees of Alexandria and Rome, it could scarcely have been possible unilaterally to dismiss a section of the populace from the city. In the normal course of affairs, if a bishop sought to eject a large bloc of citizens, his only recourse would have been to cajole a secular magistrate to pronounce and enforce that verdict. This was the case in the reign of Constantius when various bishops brought allegations against each other to the emperor’s attention. Basil of Ancyra and Eustathius of Sebaste reported that several bishops had participated in the rebellion of Constantius’s cousin Gallus, securing

the banishment of the men accused.⁹⁴ In one case, though, we do hear of a bishop who himself seized the right to banish. The ecclesiastical historian Rufinus discusses Lucius, bishop of Alexandria, and his measures against locals and the heads of Egyptian monasteries. According to Rufinus, Lucius instituted a reign of terror, in which “after the banishment [*fuga*] and *exilium* of citizens,” and after the torturing and slaughter, he turned his sights on the heads of Egyptian monasteries.⁹⁵ In this assault on the desert, Lucius deployed military forces as well as tribunes, commanders, and dukes (according to Rufinus).⁹⁶ Although the connection with these military commanders appears later in the narrative, the whole thrust of Rufinus’s account is that the bishop exercised command over all the operations. It is true that Rufinus’s intent is to sully Lucius’s character, but the fact remains that he believes it possible for an exceptional bishop to engineer the banishment of his adversaries on his own authority. Developing social arrangements show that Rufinus’s belief was not unreasonable. By the later fourth century, bishops in certain areas had become key figures in the local administration and had developed large groups of followers who often had militia-like capabilities.⁹⁷ Certain organizations, whose ostensible purpose was to carry stretchers or to dig graves, fell under the authority of the urban bishops and represented a body of capable, loyal followers, several hundred strong and crudely armed.⁹⁸ Bishops in these cities became leaders of the crowd and held the responsibility to calm the people and the power to mobilize them.⁹⁹ These trends likely stand behind Lucius’s actions. It is important, though, that Rufinus mentions these events because he believes that they will blacken Lucius’s character. It is unlikely that the bishop acted with proper imperial approval, and as such his case suggests a possible but unlikely phenomenon.

In all, the evidence allows us to resolve certain, but not all, questions about the identity and legal basis of the authorities. It appears that there was an inverse relationship between the degree of banishing capability and frequency of use. Officials nearer the apex of power had more thoroughgoing authority to banish. Praetorian prefects and vicars had the right to condemn a person to *relegatio* or *deportatio*, though these magistrates were less accessible to the provincial citizens of the Empire. Conversely, provincial governors probably could not deport but they would have had greater occasion to rely upon limited forms of banishment in their capacity as *ordinarii iudices*. It was they who served as the most visible face of authority and, for circumstances that exceed the purview of *iudices pedanei* and the *defensor civitatis*, absorbed the majority of civic and criminal litigation. In settling the many and varied cases that came before them, governors would have been in position to hand out more sentences of banishment; however, they were more limited in their options than their superiors would have been. The urban prefect fits this pattern as well. The delicate task of acknowledging the city’s popular demands while reasserting the rule of law demanded that they deploy every device available to them.

Banishment was the quintessential expression of the requirement to patrol one's sphere. It forced an offender to withdraw himself from it and thereby leave it sound for those who remained. The emperor, whose "sphere" was coterminous with the boundaries of the Empire, held the right to expel individuals at any place within it. In the main, those who banished were those to whom other, less powerful citizens of the Empire turned for protection and justice. Maintaining order as well as punishing civil and criminal infractions necessitated the ability to remove certain persons. Late antique sources show a much greater interest in the abuse of this power. Ammianus, for instance, comments on banishment typically when the motives of revenge led an authority figure to upend the lives of others; ecclesiastical materials lavish greater attention to the banishments which they felt to be unjust. The net effect of those perspectives illuminates a significant facet of the authorities who banished—that they at points did so as a function of personal or ideological grudges. Yet those instances do not express the ordinary qualities of banishing authorities.¹⁰⁰ The legal authority to impose banishment arose out of the need to protect a certain zone, be it a geographical region or an administrative bureau.

4 The Enforcers

Once an official had decreed banishment, it devolved upon the apparatus of the Roman state to implement the decision. However crucial this element was for the process itself, it was not the sort of topic to which the ancients devoted lavish depictions. The evidence, then, is quite fragmentary. Nonetheless, it permits the reconstruction of a general outline.

In the abstract, there were three stages that characterized the enforcement of a banishment sentence. Nothing suggests that the participants understood these stages as distinct categories. Yet we can identify them as common factors in the ejection of exiles, each potentially independent from the others. First, someone often had to force the exile into motion and out of his old place of residence. Sometimes this task required nothing more than an order given to the person banished; other occasions required great cunning or force. The next stage involved conducting the exile to a new residence. Clearly, this act of escorting would have been appropriate only when the terms of the sentence specified a particular place for the exile. In sentences that merely prohibited an area, the act of ejection would suffice. Conveying the exile required less guile, but it still often demanded a henchman or two to see that the sentence was obeyed. Finally, an official at the destination assumed control of the exile once the latter reached this site.

For many portions of this investigation, the best or only evidence stems from ecclesiastical materials. It is a boon for the study of banishment that documents such as these survive. It is also true that depending so heavily on the letters and treatises of churchmen introduces certain difficulties. Handling bishops posed unusual questions for the authorities. Would a bishop ever overpower his guards? Would his followers? Did a condemned bishop deserve respectful treatment even in banishment? For the historian, too, these uncertainties complicate matters. Authorities may well have taken extraordinary steps in their removal of ecclesiastics—veering either towards leniency or caution—but in the absence of other evidence, we would not know the extent to which these decisions departed from convention. The situation requires some cautious guesswork to imagine the larger phenomenon based on the smaller pieces that are known.

I EXTRACTION

Extractors in many situations allotted their charge a small period of time to prepare for their journey. The jurists touch upon this issue at various points. Genuine historical value resides in their assumptions, quite apart from their distinct judgments. On this point, they offer descriptive, in addition to prescriptive, material. An opinion of Ulpian states that governors typically permitted the relegated a period of time to get moving. The situation that Ulpian invokes explicitly concerns only *relegatio*, leaving *deportatio* aside. We cannot judge, on this alone, whether the deported were denied the courtesy which Ulpian claims *relegati* received. It is also true that the position of the governor underwent drastic changes in the years subsequent to Ulpian's writing.¹ Although in the later Empire the post of governor was a shadow of its former self, the opinion still suggests what an important Roman official would likely do in a given situation. When praetorian prefects and vicars absorbed the responsibilities of governors, they most likely adopted the gubernatorial way of doing things.

Marcian addresses this subject almost as an afterthought in a commentary on those who defied the conditions of their sentence by leaving the area where their banishment had led them. We will return to this opinion and its implications about the supervision of exiles in short order; at present, relevant is the fact that Marcian imagines a gradual scale of increased punishments for those who violate the terms of their sentence. He notes at the end of this discussion that the same escalation applies to those who refuse to depart into *exilium* within their allotted time.² His discussion presumes that in common cases, enforcers permitted the banished a short period of time, perhaps on the order of a couple of weeks, to put their affairs in order before departing. Confirming the ongoing existence of this grace period is beyond the limits of the later Roman evidence. There is no reason, though, to doubt that later magistrates continued to observe this routine. As an exception which may confirm the rule, Philostorgius emphasized that under Auxonius, the praetorian prefect of the Orient, Eunomius had to depart for Mauritania in the midst of wintry bad weather.³ Whether the episode is historical or not, a wintertime departure struck Philostorgius as remarkable enough to mention. It would seem that typical banishment cases did not proceed so relentlessly.

The personalities and stations of those who did the actual work of extraction seldom appear in the extant evidence, but the sources do suggest that the task often required blending resources from disparate zones of government. On one hand, it seems that forces from the military branch of the government were required to enforce banishment; on the other, provincial administrators might be the ones responsible for supervising the process. Thus, a distinction frequently existed between the officials who exercised managerial oversight and the military brawn that ensured compliance. This contrast gains significance from the fact that in the later Empire, civil and

military office-holders occupied spheres more distinct than had magistrates in the early Empire.⁴ Thus the exchange between different pieces within this overall structure—as the act of banishment could necessitate—could be a crucial, even clumsy, procedure.

Reading the examples of imperial legislation that banned heresy (and non-religious offenses, for that matter) can leave one with the impression that the emperors themselves stamped out these errors. Doubtless, the laws themselves intend to evoke that image, and it must be acknowledged that they served a rhetorical function as well as a legislative one.⁵ The constitutions themselves did not produce immediate results, however. Merely declaring a person or faction to be outlawed did not automatically ensure their departure. Nearly all imperial enactments are instructions to other officials commanding that they—the subordinates—punish future infractions.⁶ Some of the legal literature makes this plain. We have already encountered the rescript issued by the court of Honorius, charging the praetorian prefect of Italy with the expulsion of Pelegians from Rome.⁷ Three years later, Constantius III, co-Augustus in the West, addressed the issue anew in a pronouncement to the urban prefect, Volusian. This verdict itself alleges that earlier legislation had not produced the desired effect. “We enjoy,” it contends, “more and more that Caelestius [a leader in the Pelagian movement] be driven from the city.”⁸ It also warns Volusian’s office against negligence and promises a capital sentence for the staff if there surface reports of a lingering Pelegian presence. This nervousness was not misplaced—the injunction itself demanded the elimination of the sectarians but depended on local magistrates for its implementation. Volusian did indeed take the next step by publishing an edict proscribing Caelestius and anyone who would give shelter to his ilk. The posting exhibited Volusian’s sincerity in punishing such offenses. It did not indicate, though, that Volusian had the intention or ability to pursue a course of investigation and active detection. The edict stands rather as a promise to discipline Pelegians by means of expulsion—should any come to the urban prefect’s attention. Collectively, this evidence reminds us that the bark of imperial legislation made little practical difference if not accompanied by the bite of local enforcement. A stringent pronouncement might voice genuine aspirations and even intentions, but it would not in itself suffice to relocate the offenders.

The actual removal of exiles would require involvement from magistrates close to the situation. Athanasius, who represents one of the main sources for the theological controversies of the fourth century and the fates of the participants, provides a rich source for information on this subject. Complex questions on the relationship between historical reality and rhetorical agenda bedevil the study of this bishop’s writings.⁹ When he recounted the ecclesiastical events of his day, he often bemoaned the involvement of the government. However, Athanasius tended to see action as an intrusion when it promoted a position which he disliked, seeing action in his favor as just.¹⁰ Additionally, his rhetorical concerns caused him to present matters

so as to depict governmental involvement in a tyrannical light. He did not intend to describe how the government normally worked, but rather how it violated the sacrosanctity of the church. His allegations create an impression of an anomalous and indefensible course adopted by his nemeses, such as Constantius. All the same, behind the bishop's outrage lurk historically plausible elements. In his condemnation of the forces "persecuting" his position, Athanasius suggests that the imperial forces treat bishops as they would ordinary malefactors.

In his survey of church politics in the mid-fourth century, Athanasius recounts many collisions between churchmen and imperial forces. About the Council of Tyre, held in 335 to assess charges of Athanasius's illegalities, Athanasius himself complains that a count (κόμης) presided over it and commanded soldiers to remove dissident bishops from their sees.¹¹ He also claims that events in the Mareotis in Egypt resembled those in Tyre, with a count in charge of its proceedings and military men to enforce his decisions.¹² Some of Athanasius's other accounts of governmental action against bishops, mainly himself, stretch credulity. In one instance he asserts that the general Syrianus (ὁ δὲ στρατηλάτης Συριανὸς) descended upon him with a detachment of more than five thousand soldiers in order to apprehend him.¹³ Athanasius's picture gives the sense of military officials, such as the count or general, wielding substantial forces in the effort to eject targeted bishops. This stylization of matters certainly contributes to the author's motif of iron-fisted oppression. Conversely, his allegations possess some veracity: enforcing a sentence of banishment could necessitate a vast force, though for reasons other than what Athanasius implies.

Prominent cases, like Athanasius's, required enforcers to deploy substantial manpower, not to overpower the bishop, but to suppress violent reactions from his devoted followers—and woe to the official who attempted unprepared to eject the popular cosmopolitan. Christian leaders had taken on roles of prominence in the late antique city and had amassed potent multitudes of supporters.¹⁴ Certain examples bear out this point in harrowing detail. The story of Paul of Constantinople indicates the peril that faced the unwitting agent.¹⁵ Hermogenes, the master of the horse, came to Constantinople to force out the popular bishop Paul in the year 342.¹⁶ A number of sources describe the event.¹⁷ Of these, the fullest and likely most accurate rendition appears in the *Church History* of Socrates. This author indicates that Hermogenes undertook his task with excessive military force, which caused the Constantinopolitans to rally behind their bishop, even to the point of rioting. Hermogenes's tactics, in fact, so angered the populace that it burned his house down, dragged him through the city streets, and eventually murdered him.¹⁸ The most telling point is that Hermogenes pressed too hard, or too clumsily, for Paul's removal, persisting with his insufficient military force even though it was plain that the populace stood behind their condemned leader. When it became clear to the residents of Constantinople that the general had failed to read their mood, they took up arms

and lynched him. Were Hermogenes, or any other potential implementer of banishment, to resort to brute force alone to carry out this task, then a virtually insurmountable level of troops would have been necessary. This is an important point; when we read Athanasius's accounts of the massive levels of troop deployment, we should not accept his implication that they were the product of an oppressive regime. They were rather the prudent safety precautions taken by an administration which recognized the citizenry's capacity to oppose an official mandate.

The ensuing efforts to eject Paul clarify the alternative techniques that ejectors might have used.¹⁹ When Philip, the praetorian prefect of the East, came in a later occasion to banish Paul, he turned to other means.²⁰ Rather than pry Paul from his adoring city by force, Philip resorted to guile. He invited him to meet at a public bath to consult on important matters and when Paul appeared, confronted him with an imperial warrant for his banishment. Because a bathhouse near the palace had been selected as the place of the reception, Philip was able to whisk the bishop through a secret route to the palace's private harbor, where a ship conducted him to Thessalonica.²¹ Plainly, Philip had learned well what Hermogenes fatally demonstrated. Force was necessary to ensure compliance, but in some cases, an overwhelming level of force often proved impractical. In these, the operation would come off more smoothly with a small band of loyal soldiers and a clever, rapidly executable scheme. There is another change from the failed attempt of Hermogenes. In the first effort, the mission fell to a military general; in the second, Constantius assigned the task to his second in command in the provincial branch of the government, the praetorian prefect.²² Of course, a praetorian prefect could host a political banquet more plausibly than could a general. Whether the reason lies in Philip's personality or his sector, it emerges that generals and prefects could be called upon to marshal troops and evict a reluctant exile.

Paul's was not the only case in which enforcers found it necessary to use discretion in removing the banished. Those extracting Eusebius of Samosata and John Chrysostom also did so discreetly.²³ The ecclesiastical historian Theodoret describes the eviction of Eusebius of Samosata (conducted as part of the emperor Valens's efforts to suppress Nicene Christianity). As Theodoret envisages the event, Eusebius's evictor, whom Theodoret simply refers to as "the bearer of this law," arrived in the evening and received council from his charge not to divulge his purpose to the populace, lest in its zealous piety it drown the evictor (and bring opprobrium upon their prelate).²⁴ Accordingly, the bishop and a single servant embarked during the night.²⁵ It is not impossible that Eusebius suggested a nocturnal departure. Theodoret indicates that the bishop's motive was his wish to escape the accusation of murder, should his flock lynch the law-bearer. Such an event, which was almost predictable, would have tarnished the bishop's reputation. All the parties understood that the bishop's departure would lead to discord, even bloodshed. The bishop must have willingly complied with the

plan or else realized the situation only when it was too late to change it. John Chrysostom also departed quietly into his final banishment.²⁶ John's standard mule was used as a diversion while the bishop slipped out a different exit. Once more, the available evidence asserts that the bishop himself had the inspiration for the notion of a secretive departure.²⁷ And once more, the evidence makes plain that the need for a ruse lay in the potential violence of the populace.²⁸ In sum, the difficulties of evicting a popular bishop could require agents to make use of guile or misdirection. Doing so could help ensure peace in the city and the safety of the evictor.

Most extractions, even of bishops, would have demanded much less manpower. A batch of governmental mandates ensuing from the First Council of Ephesus (431) speaks to some of the norms and exceptions of extraction. In the eastern portions of the Empire, considerable discord surrounded the subject of Nestorius, the deposed Patriarch of Constantinople and proponent of the theological view traditional in Antioch. We have already encountered the efforts of Dionysius and Titus to persuade bishops such as Alexander of Hierapolis to take up the cause of church unity.²⁹ It is clear that some bishops put aside their theological scruples and that some did not. Authorities responded with different troop levels. When one such holdout, bishop Meletius of Mopsuestia, refused to capitulate to governmental and ecclesiastical pressure, Dionysius sent instructions to the governor of Cilicia Secunda on Meletius's removal and banishment to Melitene. Dionysius directed this (unknown) governor to make use of "military compensation" (*militari solacio*) from the vicar if he deduced that such assistance would be necessary. Dionysius also indicated that, in his view, precautions along these lines were likely extraneous, as "civil troops" (*ciuiles ordines*) would probably suffice.³⁰ While these instructions may or may not have been clear to those charged with implementing them, they leave much ambiguous for the modern interpreter. The phrase *ciuiles ordines* contains a certain paradoxical quality, but calls to mind the image of functionaries within the civil framework with little or no combat experience and deputized to carry out a task that might entail a show of force.³¹ They stand in contrast to the next option up, assistance from the military ranks. Dionysius allows for the possibility that such may be necessary in Meletius's extraction.

The same concerns and expectations appear in the correspondence over another intractable bishop, Alexander of Hierapolis. Titus (who held the position of count of domestics and vicar of the master of soldiers and who likely represents the vicar in question in Dionysius's letter to the anonymous governor) announced to the provincial governor, Flavius Libanius, that Alexander's refusal to come into communion with the ascendant majority qualified him for banishment.³² Therefore, Libanius was to remove Alexander and, if such a feat proved beyond his abilities, to avail himself of the "mightiest and most devoted soldiers while they are stationed in that city" (*dum <fortissimi> deuotissimique milites in ea constituti sint ciuitate*).³³

Titus's letter alludes to rank-and-file servicemen (the *milites*) in the Roman army, yet does not make plain the position of the *milites* or the qualities that would have made them *deuotissimi*, thus leaving these individuals' particular qualities indefinite. Indeed, the backdrop of the later Roman army provides little guidance, as it is itself a subject riddled with uncertainties.³⁴ Modern scholarship on the Roman army has long presumed the presence of large trends in late antiquity, such as the increase both in the military's significance in the maintenance of the Empire and of the percentage of non-Romans in the ranks—but such views have more recently come under review.³⁵ We can at least say with some confidence that in the later third or early fourth century, emperors restructured the army in order to create new divisions placed under new officers. Novelties included the institution of a field army (that is, one that consisted of soldiers culled from other provinces in order to shore up, either offensively or defensively, the military resources in a certain zone) headed by the master of the foot and master of the horse.³⁶ Throughout the ranks, soldiers carried appellations corresponding to their various companies. For instance, those enlisted in the field army were *comitatenses*, just as servicemen stationed at the frontier were *limitanei*.³⁷ The term *miles* served as a generic one, however, and could refer to a soldier in various circumstances.³⁸ Tellingly, when the emperor Honorius directed a letter to the soldiery of the Empire, it began by addressing *universis militibus nostris*—"our soldiers *en masse*."³⁹

In the absence of further information, the term used by Titus (preserved and potentially modified in the *Synodicum*) could point in a number of directions. These *milites* seem not to have been stationed permanently in Hierapolis. *Comitatenses* would fit this description nicely, but other categories of soldiers could have been billeted temporarily there as well. Hence the *milites* in question might well have been members of the field army even if further alternatives remain possible. As to their quality that made them "mightiest and most devoted," it is entirely possible that Titus intended nothing beyond the ordinary associations inherent in those modifiers. Given the attitudes of the era, an anti-barbarian bias may also underlie the remark—Titus may presume that *milites* of Roman stock exhibited greater heartiness and dependability.⁴⁰ Ultimately, in Titus's letter, the most important phrase for the study of banishment may be his clause *dum . . . in ea constituti sint ciuitate*, "as long as they are stationed in that city." It suggests that the soldiers deployed for banishment purposes, here and in others beyond the historical record, were simply whichever ones existed in the relevant spot at the necessary time. Indeed, finding any troops to perform extraction duties may have been a catch-as-catch-can operation.

In their discussions on the methods of extracting bishops, the magistrates disclose many significant elements. Provincial governors served not only as authorities responsible for declaring a sentence of banishment; they might also enforce such a sentence, even one decreed by a superior administrator. In usual circumstances, governors would have attempted

the maneuver without a detachment of soldiers at their disposal. In the absence of additional support, governors must have leaned on their *ciuiles ordines*—who may have been little more than deputies of the governor equipped with a weapon or with official authority—to implement the order. In situations outside of the ordinary, these troop levels might prove inadequate. Hermogenes had met his fate in 342; by the middle of the fifth century, extractors knew to err on the side of caution when dealing with an exile with a potentially formidable network of support (as many bishops would have had).

The issues exposed by these bishops reveal the reasons that church councils had a special value for enforcers. Whereas a devoted following, such as Paul's, could rouse itself to defend a bishop upon whom the sentence of banishment had fallen, bishops at a council had no such support. By virtue of being away from home, these bishops were also distant from their supportive followers. For example, Sulpicius Severus relates that at the latter stages of the Council of Ariminum, Constantius gave orders to Taurus, the praetorian prefect of Italy and Africa, that he should press for the unanimity and send into *exilium* bishops who refused to conform, so long as this number of resisters did not total fifteen.⁴¹ Severus credits Constantius with the ultimate decision to dislocate the dissenters. It fell to the Taurus, though, to implement these designs.⁴² In contrast to missions that involved extracting a bishop from his home see, Taurus might expect to accomplish the banishment of fourteen bishops in a single stroke when those bishops were contained in a council. Banishment served as a tool for establishing orthodoxy and, like creeds and councils, became a signature device used in the later Empire to assert proper faith. Banishment and church councils were often linked not only because church policy was set there but because at a synod bishops were already half-ejected from their homes.

The examples treated in this section thus far have all surrounded the banishments of important ecclesiastical figures. The means of eviction did not change according to the exile's priestly status; thus, the techniques applied to bishops could also pertain to others. Conversely, the level of an exile's notoriety could alter the means of eviction. The patriarch of Constantinople was no standard exile, and therefore atypical procedures surrounded his eviction. In other cases, the methods necessary to accomplish the initial act of banishment changed according to circumstance, for most of those banished would not have had a band of devotees. In fact, all of the preceding examples point towards the atypical position of the Christian bishop. Unlike governmental authority figures, bishops often lived in their communities for great lengths of time, over which they could become deeply entrenched in the locality.⁴³ The sources ably attest to keen feelings of connection between certain bishops and their flocks. The masses could easily and quite rationally harbor attachments to their local bishop stronger than those to their distant imperial government. An extractor had to face the headwinds of those loyalties.

Some evidence suggests, however, that troops were not always deployed for eviction. In one of his letters to Theophilus of Alexandria, Jerome writes that his enemy, John of Jerusalem, has obtained a sentence of *exilium* against him.⁴⁴ Jerome laments that John failed to execute the decree and claims to welcome banishment.⁴⁵ He knew a judgment of banishment had been pronounced against him, yet felt no compulsion to get moving until someone forced him to do so. Rhetorically, Jerome asks, “Why is it necessary for the public authority, for the expenses of a rescript, and the running around over the whole world? Let him even touch [me] with his little finger, and we will retire voluntarily.”⁴⁶ Jerome’s bravado notwithstanding, his willingness to depart into banishment was much less than what these contentions suggest. After all, he could have vacated the area if he felt bound to do so. Jerome reveals that John had successfully obtained the official decree, which indicates that it had official force. In point of fact, no one required him to depart from Palestine, and so he never did. The absence of proper enforcers caused the banishment process to break down.

In fact, we find scattered evidence both of ecclesiastics contravening their banishment orders and of the officials responsible for ejecting them sitting on their hands.⁴⁷ A tangled and at some points corrupt mandate from the emperors Gratian and Valentinian II once grumbled to Aquilinus, the vicar of the city of Rome, about condemned ecclesiastics who continued to cause trouble.⁴⁸ The rescript recounts the flaws of the bishop of Parma and alleges that, “if your predecessor had possessed any liveliness, he would have been bound to drive him out [*extrudere*] far past the boundaries.”⁴⁹ The clear implications are that the previous vicar made no move to expel the Parmesan bishop, and that the bishop himself did not betake himself in banishment. Broad-stroke mandates from emperors calling for the banishment of factions and leaders within the church would be especially prone to dysfunction. Local politics, lethargy, or ideological commitments could lead an extractor into inaction. In these cases, those who were supposed to depart into banishment had strong reasons to resist the order, a sizeable support network, and, quite often, substantial distance separating them from the emperor or council that condemned them.

The letters of the emperor Julian capture many of the themes which pervade this component of the banishment cycle. This emperor endeavored to remove Athanasius from Alexandria in the year 362. In his first effort, Julian merely wrote an edict “to the Alexandrians” and informed them that he wished Athanasius to depart immediately.⁵⁰ Instead of outlining a clear plan for Athanasius’s removal or charging specific officials with the responsibility for the task, Julian relied upon fear and respect—on the part of the bishop and the city—to force individuals into action. However, the letter was met with sloth rather than action. Athanasius declined to leave, and none of the local authorities took responsibility for forcing him to depart.⁵¹ The Alexandrians’ sluggishness pointed up the principle that if a would-be exile did not feel a sense of intimidation, then imperial

adumbrations without enforcement would have been fruitless. The shrewd ruler would not risk this outcome by issuing banishments which he was powerless to enforce. Such events displayed a meaning opposite to the desired one; they proclaimed a ruler's impotence and declared the defiant person immune from his authority. Here and elsewhere, reliable extractors constituted a vital step in the banishment process. Learning from these mistakes, Julian made a second attempt to wrest Athanasius from this city. While his first attempt had foundered on the lack of specifics, this effort employed greater accountability and explicitness. Julian wrote to Ecdicius, the augustal prefect and, in this case, the extractor. Rather than prevail upon the city in general (perhaps with the intent that municipal authorities would step in) as he had in the first attempt, Julian now turned to a magistrate in the imperial administration. Expressing to Ecdicius his anger that his earlier attempt failed, Julian this time swore that if Athanasius had not vacated Egypt by the December Kalends (that is, the first of December), that he, Julian, would impose a fine of a hundred pounds of gold on Ecdicius's cohort.⁵² Fed up with failure and disobedience, the emperor designated the precise date by which this extraction had to occur. In this case, however, this date signifies not an extension of tolerance, but a technique (along with a potential fine) to ensure enforcement. Presumably, Julian specified the Kalends of December because he felt that this was the soonest major date by which the order could be executed correctly. In other words, the delay was not designed for the exile's benefit, but to goad the extractors into action. Julian's second version improved upon the initial effort and, in tandem, the two pieces of legislation demonstrate effective and ineffective methods to extract an exile. Reliable officials (ideally with an ideological or administrative link to the authority issuing the sentence), a clear but realistic timeline, and consequences for failure all served to make the process function. While imperial prestige counted for something, all alone, it was not always adequate to affect the extraction of the banished.

II TRANSPORTATION

Cases in which the sentence sent an exile to a specific location often necessitated a detachment of guards to act as an escort. Their principle purpose was one of enforcement, to ensure that the banished obeyed their directives. Ulpian's comments shed a bit of light on the state of affairs in the early third century.⁵³ He recognized the governors' right to relegate under their own authority and offered advice on how to treat a very specific situation—the handling of one who was awaiting an island assignment from the emperor because he had been condemned to relegation to an island by a provincial governor whose domain did not include an island. Such a one, opined Ulpian, “should be handed over to *milites*.”⁵⁴ In the simplest reading, Ulpian's remark indicates that the *relegati* would have been put

in the hands of those capable of conducting them to their destination.⁵⁵ Although the jurisdictional range of this opinion is rather narrow, many other categories of banishment could still conform to the same pattern. In particular, when a sentence required that an exile go to a specific location, then soldiers would likely also have been standard, even if that destination were not an island.

For the later Empire itself, we must reckon with a severe paucity of evidence about this stage. Instances involving higher profile individuals offer some of the only commentary. Arcadius's pronouncement relegating Eutropius to Cyprus specified that he be conducted "in the custody of faithful guards."⁵⁶ Of note here is the decree's concern for loyal guards [*fidis custodibus*], lest the ex-grand chamberlain use his influence to manipulate the situation. Were a less prestigious *relegatus* traveling to his destination, he would not have necessitated exceptional or hand-picked guards, though a small detachment might still be in order.

The exact rank of guards used as escorts is opaque. Some scraps help us sleuth out the approximate position of these henchmen. The pagan historian Zosimus describes the affairs of one Timasius, master of the horse and foot. Zosimus indicates that a public guard [*φυλακῆς . . . δημοσίας*] escorted Timasius to his place of banishment.⁵⁷ The noun he uses, *φυλακή*, suggests a guard or ward, implying that the escort's purpose was to keep an eye on the exile. The detachment was probably a group whose normal duties included guarding.

We glean a more vivid sense of the personnel who might have escorted exiles from documents closer to the events they describe. John Chrysostom also departed into banishment under the supervision of mercenary guards, though the purpose of those soldiers hardly seems to have been strong-arming the bishop into compliance. Their presence seems far more likely to exhibit standard protocol, even if the aged archbishop received his escort for atypical reasons. In a letter addressed to the presbyter Theophilus, John makes reference to this type of personnel. Chrysostom expresses his gratitude for the presbyter's letter and informs him of letters he wrote on Theophilus's behalf.⁵⁸ In explaining these things, John says that he discussed these matters with "my lord Theodore, the ἐπαρχικός, who conducted us to Cucusus."⁵⁹ In this case, it fell to the ἐπαρχικοί (the Greek equivalent of the Latin *praefectiani*, indicating the officers beholden to a praetorian prefect) to lead the exile to his allotted location.⁶⁰ Another of John's letters mentions these men in a different light. In describing the atrocities of his journey, John relates an attack he suffered in Caesarea. Word spread that the Isaurians were assailing the city, causing the tribune and his men to go patrol in defense. In this undefended state, John was then besieged by a mob of hostile monks. John tells Olympias, his correspondent, that the monks' fury reached such a fever pitch that even the ἐπαρχικοί grew fearful. The monks themselves flaunted the fact that they had taken on and beaten ἐπαρχικοί in the past.⁶¹ These ἐπαρχικοί/*praefectiani* were the staff serving under the

authority of the praetorian prefect of the East; they were hardly warriors hardened by battle, nor had they much reason to expect trouble in the process of conducting an elderly priest. There seems only to have been two of them, and they must have posed little threat to an angry gang of monks.⁶² Thus, when confronted by a violent throng of rural monks, they must have faced superior numbers. This episode helps create a general picture of the escort that one exile, albeit a prestigious and respected one, received. A separate letter from John to Olympias reveals another important quality of these *praefectiani*. In this missive, he indicates that the inconvenience of his trip was greatly softened by the concern of those responsible for carrying out the sentence. He wrote to Olympias that the ἐπαρχικοί accompanying him treated him so kindly that they obviated the need for slaves.⁶³ Even though there may be a touch of rosy reassurance in this remark, it serves to indicate that the accompanying henchmen did not always treat their charge roughly. In this, an exceptional case, these men actually aided John by attending to his needs. Their official purpose, of course, was to force John to comply with the instructions of his sentence. In reality, however, their job was as much to soften the blow as to deliver it.

The *Synodicum* includes further information that can help illuminate extractors' identity and station. It contains a letter from the prefect (originally issued in Latin, but then translated by Irenaeus into Greek and later translated back into Latin) giving instructions on the banishment of Irenaeus himself and his ally Photius to Petra. In the process, it enumerates certain features of Irenaeus's transporters. The instruction from Theodosius II adjured Isidorus, praetorian prefect of the East, to deploy two *singulares*, Orestes and Stephen by name, to use two horses for themselves and two other horses called *parhippi* ("outrunners"), presumably for supplies.⁶⁴ Deprived of their property, the exiles seem to have been expected to walk. The selection of *singulares* is revealing. Whereas in the earlier Empire, the *singulares* served ceremonial and security purposes, by the fourth century, "they no longer constitute a combat-ready guard of their officers but a class of civil servants concerned, among other things, with financial matters."⁶⁵ It may be that *singulares* at moments revived some of their escorting qualities. Even if they had undergone some basic military training (unlike the potentially hapless *ciuiles ordines* who might have been called upon to extract Meletius), they were not likely to resemble hardened veterans. Perhaps the normal choice would have been whichever service men (or even armed bureaucrats) were available at the time and that in dicier circumstances capable, "faithful" guards became necessary.

Cumulatively, Zosimus, John, and Irenaeus show that in important cases a guard consisting of soldiers went along with the exile. In John's and Irenaeus's cases, these soldiers fell under the authority, however indirect, of the praetorian prefect. While it strains the evidence to conclude that all soldiers escorting exiles were *praefectiani*, these glimpses reveal that when authorities felt it necessary, they could deploy a small number of soldiers

to ensure that the exile reached his destination. Furthermore, these examples exhibit the two parallel functions that guards could serve. Primarily, they used their brawn as the means to dislodge exiles and usher them along to the appointed spot. Secondly, their strength could be put to use defending their charge from threatening forces. Both tasks could even come into play during the same mission. Hence, these soldiers guarded an exile in complementary but paradoxical ways: they forced him to comply with the imperial will, an essentially coercive act, and shielded him from harm, a protective gesture. Just as the scanty evidence concerning the initial moment of extraction suggested that in some cases the authorities could not or did not send military personnel, so too it seems probable in the phase of transportation that not every instance involved military troops. Perhaps personnel resources were often too scarce; perhaps such force would have been unnecessary. In any case, the rarity of references to military escorts may suggest that their presence was not automatic.⁶⁶

III SUPERVISION

An exile who arrived at his destination might pass into the authority of a party at that site. Conversely, in many examples no such thing would have been necessary or even possible. When the terms of an exile's sentence left open a wide variety of locations, they would have precluded this possibility. In particular, when persons experienced the type of *relegatio* that prohibited only certain places but left open all others or the expulsion that resulted from a magistrate's *coercitio*, they would have been able to travel as they liked, so long as they avoided the original area. No one could have arranged for a potential supervisor in their new position, as this location would have been undetermined and quite possibly fluctuating. Little evidence from the later Empire speaks of individuals banished in such a way that they could travel freely in areas outside of their home.⁶⁷ A *relegatus* who travelled licitly in banishment was unlikely to register in the historical record.

In cases when banishment attached the exile to a specific location, the third stage, supervision, commenced once he arrived at his destination. At this point, a different, local official could take cognizance of the matter. Here we must make cautious guesses from patchy and circumstantial evidence. The extant materials imply that some notable person in the area was tasked with oversight of the exile. The correspondence of some bishops in banishment hints at the nature and rank of those who performed this function. In most cases, supervisors would have been members of the Roman bureaucracy either geographically near the exile or in position to transmit information from the provinces to the imperial center.

A mid-fourth-century letter composed by Liberius of Rome contains a possible hint of exilic oversight. In his final letter from exile, Liberius complains that, "my most beloved son, Urbicus the deacon, whom I seemed

to have as solace, has been removed from me by Venerius the *agens in rebus*.”⁶⁸ In the absence of further information, we cannot be certain what role Venerius played in Liberius’s banishment. It is nevertheless illuminating that the *agentes in rebus*, an organization that conducted messages and performed some internal surveillance functions, had involvement in Liberius’s banishment. Perhaps, given the *agentes*’ general duties, Venerius was responsible for monitoring Liberius in his banishment. The *agentes* were not a part of the provincial government, and it therefore seems likely that their job was less to enforce good behavior from the banished and more to keep tabs on Liberius’s affairs on behalf of the imperial court.

Chrysostom’s letters provide a glimmer as well. When he arrived in Cucusus, he wrote a cordial note to Carterius, the provincial governor (ἡγεμῶν) of either Galatia or Cappadocia II.⁶⁹ The substance of the letter concerns friendly topics, such as hope for relaxation in the desolation of Cucusus and a request for a letter in reply. John also contrasts the disturbances that marked his travels to the present tranquility.⁷⁰ Roland Delmaire believes that the military escort taking John into banishment had to report his arrival to Carterius.⁷¹ This is a sound, certainly plausible, suggestion. The tone of John’s letter strikes a cordial note, yet it seems to carry formal purposes as well. It seems that the governor had some sort of professional interest in John’s arrival and his condition.⁷² If this interpretation is correct, then John’s experience offers indications of the ways that the Roman system could account for exiles of any stripe. Surely not all exiles had John’s literary abilities or penchant for congeniality, but they could still report in to a supervisory official.

In cases involving church matters, the person in charge of the exile might not be a member of the administrative bureaucracy at all. Following the Council of Milan in 355, Eusebius of Vercelli was banished to Scythopolis, where he became the charge of the local bishop Patrophilus. Patrophilus was a noted opponent of Nicene theology, and therefore an adversary to Eusebius.⁷³ In fact, there seems to have been great enmity between the two men. In the course of events, Eusebius found himself confined to an inn, into which he asserts Patrophilus remanded him.⁷⁴ This affair indicates that at least in the middle of the fourth century, ecclesiastics could take charge of ecclesiastical exiles. Patrophilus may not have had a legal obligation or basis for his authority, but he was still expected to perform the role of an exilic supervisor. Liberius of Rome was sent to Beroea where the bishop was Demophilus, a bishop opposed to Nicene theology.⁷⁵ This, no doubt, was part of the reason that made this city an attractive choice to Constantius for a place to send Liberius. This pattern was probably repeated in the case of other ecclesiastics banished for theological reasons. In any instance, when an emperor (or other authority) retained hope of coaxing change from a displaced bishop, this pattern would have suited the context.

These examples all treat famous or important exiles, however. In most instances, we can deduce, there was little or no effort made to supervise

the exile with much precision. The phenomenon of the runaway exile was common enough that the jurists dealt with it in order to establish the rubric of punishments for that offense. Callistratus cites a rescript issued by the emperor Hadrian (ruled 117–138) which established the operative principle—namely, that he who returned early from his banishment should be sentenced to the next worse type of punishment.⁷⁶ For instance, one who slips away from temporary *relegatio* ought then to suffer permanent *relegatio*. As we saw above, Marcian (writing slightly later than Callistratus) also dealt with the problem of escaped exiles. His discussion does not make reference to Hadrian, but it does maintain the same basic principle. Instead of addressing exiles returning home, it concerns the wider category of exiles who violate the terms of their sentence, especially geographically. The fact that a second-century emperor and two third-century jurists would treat the problem strongly suggests that it was commonplace. Evidently, such exiles could not have been watched too carefully.⁷⁷

Although the emperor Hadrian confronted the subject of escaped exiles in a rescript, imperial legislation in the later Empire generally avoids the topic. Certainly, imperial authorities had little incentive to call attention to an individual's ability to circumvent the law. When legislation acknowledges the phenomenon, it does so almost inadvertently. The western law, issued by Majorian in response to Ambrosius escaping from relegation, has appeared in this study at several points. It betrays the fact in the final days of the western Empire, emperor and governor alike were powerless to contain a *relegatus* bent on flight. Plainly, nothing had compelled Ambrosius to stay put. At the time and place of the law's composition, Roman rule had greatly disintegrated. Ambrosius probably saw correctly that its regulations could simply be ignored.

Such occurrences point out a delicate balance inherent in banishment and the significance of well-chosen supervision. While the banishing authority might have wished, as a display of sovereignty, to place the exile somewhere marked by extreme remoteness or seclusion, those very qualities might work to the advantage of the one exiled. After all, a destination so isolated that it put the victim beyond the limits of civilization also put him beyond the reach of Roman power. The choice of location thus presented authorities with a dilemma. Reliable local contacts provided a solution. Spots inhabited or governed by loyal parties therefore became advantageous. Some places may have been selected for reasons having to do with personnel rather than geography. This impetus could well account for the particular sentences given to those banished at the Council of Milan. As we have seen, Eusebius was sent to Scythopolis, Liberius to Beroea, Lucifer to Eleutheropolis—all cities where non-Nicene bishops held sway. In other cases, this selection process would have entailed less ideological sympathy than simple trustworthiness. Ammianus captures these processes in action when he recounts the affair of a certain Valentinus. Ammianus indicates that Valentinus was exiled to Britain, though the historian leaves the reasons for Valentinus's banishment

unclear. Bored, Valentinus formed a plot of rebellion with other exiles and local soldiers that targeted count Theodosius in particular (this Theodosius is the father of emperor Theodosius I). According to Ammianus, Theodosius learned of the plan through a trustworthy source and had the would-be rebels put to death.⁷⁸ In this affair, we can see the dangers and safeguards operative in banishment, as well as the significance of adequate supervision. Britain, on one hand, made a suitable destination to send an exile because, as an out-of-the-way location, it afflicted its denizens with tedium. On the other hand, that very same quality might put exiles' activities beyond their government's awareness. The ideal spot balanced these factors by severing the exile from his relationships but keeping him within the oversight of a trustworthy authority figure.

In sum, the significance of banishment's enforcers intrudes upon our attention usually only when some part of the process went awry. That very fact serves to underscore the importance of those who extracted, transported, or supervised the banished. It is not the case that each step proved critical in every case of banishment. However, any one of the stages could, if done poorly, cause the entire process to go awry.

5 The Banished

We now come to the banished themselves. One shrinks from applying the term “victims” for this group because—despite the many disadvantages of their condition—in Roman legal thought, it signified the alternative to something worse. Thus we might just as appropriately speak of the “privilege” of banishment as of those victimized by it. There was no one category of persons banished. Just as there were many forms of banishment—ranging from local expulsion all the way to *deportatio*—so too were there many types of people banished. The individual thrown out of a city quite likely occupied a different social position than did the one stripped of his honors, possessions, and citizenship through deportation. Thus, there is no neat category that encapsulates the variety of persons afflicted with banishment. Given that banishment terms often leave open substantial latitude on their interpretation, it is not possible to map categories of banishment cleanly onto the strata of Roman society.

At present, the inquiry surrounds not the statutes that invoke banishment, but rather the flesh-and-blood recipients of this punishment. This section therefore does not enumerate every offense that magistrates could punish with banishment; instead, it culls a representative sampling of offenses in order to detect the range of persons likely to end up in banishment. Insofar as such a thing is possible, this analysis seeks to divine their social identities from the nature of their infractions. We want to know who the banished were, not just what they did to merit the punishment. That is, an ideal reconstruction would uncover such evidence as their social stations, general patterns of life, residences, and so forth. Apart from a few select instances, however, it is possible to approach the first question (the identity of the banished) only through the second (their crimes). There are pitfalls on either side: reiterating the offenses that could end in banishment merely produces a glorified list; conjecturing what sorts of people would commit those offenses (or even whether authorities bothered to banish them if they did) invites speculation far beyond the scope of the evidence. I adopt a course that ramifies our materials into categories of like infractions. From these, it is possible to theorize, cautiously, about the sorts of individuals principally involved.

While this inquiry must progress from a survey of legal attitudes and judgments—as they substantially created the apparatus that led to actual cases of banishment—it is essential on this topic to bear in mind what the legal evidence does and does not reveal. The wrong way to proceed would be merely to assert “the punishment for Crime X was banishment,” citing a jurist or emperor, and leaving it at that. Without further qualification, such commentary would imply, without support, that the jurist or emperor in question issued a well-known and universally followed judgment, that real individuals violated Crime X (whatever that crime might be), that these individuals came to the attention of the proper authorities, and that those authorities applied the standard as outlined by the jurist or emperor. Legal experts and imperial authorities did indeed call for the expulsion of certain criminals, but the remainder is a matter of speculation. For instance, the jurists’ opinions describe many infractions that merited various forms of banishment. They do not establish what decisions provincial governors actually made. On the whole, judges’ rulings probably did follow the jurists’ advice, but we can be certain neither that the governors followed the jurists’ guidance in specific cases involving the offenses mentioned nor how the governors improvised in the cases that did not harmonize with the juristic framework.

Laws from the later Empire itself pose their own difficulties. The laws available to the modern scholar are not the sum total of laws issued in that era. Many did not survive. As was the case with the jurists’ opinions, the extant laws do not offer an exhaustive list of the crimes for which individuals could receive banishment. They offer a sampling of some of those crimes. And, again like the jurists, an imperial constitution in itself does not indicate whether authorities followed its directive. We must allow for the possibility that emperors issued laws expressly ordering the banishment of certain people that magistrates completely ignored.

There is no clean way to navigate these methodological obstacles. To extract as much information from the legal sources as they can yield (but not more), the present analysis seeks the common trends or larger groupings in the evidence. It is the premise of this chapter that laws and juristic opinions reveal social expectations that matched up at least loosely with actual events. My suspicion is that, were greater evidence available, the modern historian would be stunned by some of the anomalies that stubbornly resisted general trends. Certain examples, before our era and preserved only by the fastidious consultations of Pliny the Younger, illustrate how unclassifiable matters really were. In one of his letters to the emperor Trajan, Pliny indicates that the judgments of the previous governors had led to bewildering nuances. Publius Servilius Calvus had sentenced certain individuals to *relegatio* for three years; however, Calvus then rescinded the order, which gave the would-be *relegati* the opportunity to stay put. Then again, an enemy of theirs brought the matter to Pliny’s attention, evidently in the hopes that the legal complexities might force the original decision to

stick. Not only did the matter perplex Pliny, even the emperor Trajan had to admit that it confounded him (no action was taken until the emperor could talk to Calvus directly).¹ The same letter describes further oddities that resulted from the proconsulship of Julius Bassus. Bassus had sentenced a certain man to perpetual *relegatio*, which would seem like a straightforward situation. As it happened, Bassus was later condemned and his acts annulled. The man sentenced to *relegatio* was back home under Pliny's tenure, whether because he never left or because he assumed that Bassus's condemnation had lifted his sentence. Wisely or not, this individual had made no move to protest the fairness of the sentence in the two years after Bassus's disgrace.² The intricacies of these would-be *relegati* taxed Pliny's juridical expertise to its limits. They also offer us a glimpse into the exotic varieties of banishment that might have existed extensively just beneath the historical record.

How one extrapolates from the evidence has much to do with scholarly inclination. For my part, I view the categories created by the legal literature and the cases captured by the extra-legal sources as the tip of the iceberg. There are good reasons for supposing that banishment occurred in many instances far beyond what can be known directly. While we can hardly ever be certain about a law's application, we can, I believe, assume that law makers were familiar with the standards that steered decisions on similar cases (or even an outlook that would regard certain instances as "similar" to each other). Moreover, while in general I do not assume that Roman society was consonant with the law, I do presume that consistent patterns in the legal evidence bear witness to overarching trends on the ground. If a certain class of person qualifies for banishment in multiple examples within the legal literature, it gives us greater confidence that this cohort found itself banished in lived experience. Additionally, the different forms of banishment had advantages that made it suitable for a great many occasions. Because they dramatically disrupted a person's social life, *relegatio* and *deportatio* both represented major penalties. A magistrate wishing to make an example of a convict could employ such punishments. Because it preserved one's biological life and inflicted no direct pain, it harbored an unmistakable element of clemency. A judge who felt constrained to spare a convict could make use of the very same sentences. Because it befitted the nobler classes but could apply to men and women of any social station, banishment could result from virtually any public trial. Any magistrate caught in a complicated web of judicial requirements and social obligations—particularly vis-à-vis local elites caught up in legal disputes, whether as litigants or their patrons—could avail himself of banishment as a means to satisfy opposed parties. For all of these reasons, banishment would have held attractions to authorities in a multitude of occasions. The chameleon-like capabilities of banishment ensured that it fit naturally with the later Empire's complex judicial world, saturated at once with personal allegiances and with ethical concerns over the conduct of magistrates. If

this view is correct, then numerous persons must have suffered banishment, temporarily or permanently, in the course of their lives.

For the modern reader (who assumes that a punishment should fit the crime), an important addition must be made. Alongside this conviction sat another Roman assumption, namely, that the punishment ought to fit the criminal. Thus, to discover the sorts of people prone to banishment, we must locate this institution (in general, not to mention its subsets) along two separate continua in Roman legal thought—the severity of the crime and the rank of the offender. Either vector could generate a sentence of banishment, although this outcome was even likelier to ensue when those two vectors coincided. On one hand, criminals low on the status spectrum tended to fall into crueler punishments. On the other, trivial crimes did not merit the effort involved in banishment while truly heinous ones did not leave the offender with his life, no matter what his station.

I CRIMINAL OFFENDERS

When an offense occurred in criminal law, authorities could apply banishment both to the primary actors and to their accessories.³ That is, the punishment suited persons who violated a legal convention and those who did not personally commit the crime but also did not sufficiently work to impede it. To begin with, banishment stood as a disciplinary measure applied to those who perpetrated crimes.⁴

We can see in the jurists' writings certain violations which merited some form of expulsion. Marcian relates that *deportatio* stands as the punishment for non-servile individuals guilty of *falsum*—forgery or counterfeiting.⁵ Macer surveys the criteria for handling agents of extortion (*repetundae*), relating that *exilium* sets the standard but harsher treatment may be justified by the circumstances. He adds that hit men, and those who kill an innocent in a fit of passion, merit *deportatio* at a minimum.⁶ Embezzlement (*peculatus*), Ulpian avers, should bring on a sentence of *deportatio* as well.⁷ Sleuthing out what sort of person would have forged, extorted, or embezzled requires some amount of speculation. A humble citizen of the Empire might indeed attempt to forge documents or commit manslaughter in the throws of temporary insanity. Nonetheless, the main thrust of these policies concerned crimes that involved capital or the manipulation of documents. A person would need to be one of means or to possess some requisite skill to execute a crime at this level. Poorer individuals probably turned to theft before forgery.

These views provide a guide to the caliber and quality of offenses that brought upon their authors a sentence of *deportatio* or *exilium*. In cases such as these, we sense the crimes were severe enough to warrant a life-altering, but not life-ending, punishment.⁸ Beyond the list of specific illegalities that the jurists detail, later Roman governors must have used their

discretion in countless other cases. They almost certainly leaned on ad hoc solutions to deal with situations that did not fall neatly into an established paradigm. Emperors (and, it would seem, praetorian prefects and vicars) presumed that governors would use their discretion in handling the many cases before them. For instance, this expectation lies behind instructions sent by the emperor Constantius to the proconsul of Africa (a type of governor), Flavianus. Discussing the treatment of those who commit an act of violence, this emperor softened his father's legislation by ruling that governors should penalize a criminal who acted in a state of *procax vesania* ("wanton insanity") with confiscation of half of his property or *deportatio* instead of capital punishment.⁹ Flavianus's marching orders contained the explicit mandate to exercise independent judgment with regards to a sentence of *deportatio*. Determining who suffers from *procax vesania* is ever a subjective task. Governors would have had to employ their juridical and personal discretion to discern who qualified for this form of amnesty.¹⁰

Beyond the infractions established in earlier Rome, laws issued under Christian emperors associated certain failings with banishment as well. A concern for the bonds of marriage appears with particular emphasis at various points. The emperor Constantine tackled the issue of marriage in multiple ways. He sought to shore up the institution of betrothal by promising *relegatio* for fathers or tutors who betrothed their daughter or ward more than once in a two-year period; he also sought to apply *deportatio* to those wards who insufficiently guarded their charges' virginity.¹¹ At the beginning of the fifth century, the western court of Honorius legislated that men who sought permission for an illicit marriage ought to receive a multifaceted punishment which included the confiscation of property, a sentence of *deportatio*, and the loss of the right to marry and to have legal children.¹² The offense in question fell under the heading of *adulterium*, which had been criminal since the *lex Julia de adulteriis* at the end of the first century BCE, but this legislation introduced *deportatio* into the mix of chastisements.¹³ In any case, one who violated ancient law as well as Christian sensibility in this way could find himself among the deported.

In addition, the legal literature invokes the various forms of expulsion as much for those who connived with a criminal as for those who committed the crimes themselves. As a punishment for accessories (usually after the fact), it operated as a threat to others for contravening the application of law. Those aiding and abetting criminals often received a recommendation of one sort of banishment or another from the Digest's lawyers. For instance, Papinian prescribes deportation for those who accept their wives' *adulterium*; Scaevola stipulates *relegatio* for those who have knowledge of a parricide that they do not bring to the relevant magistrate's attention; Paulus, commenting on a specific case, advises *deportatio* for one who harbored a fugitive but *relegatio* for one who had knowledge of the same though failed to act on that knowledge.¹⁴ In these examples it is not adultery, parricide, or flight that merits ejection; rather an action (or

inaction) that in some manner assists the execution of these crimes culminates in banishment. Later laws continue in this vein. A law of Honorius attempted to prevent decurions fleeing from their civic obligations by promising *relegatio* for the leading decurions who tacitly allowed this trend.¹⁵ In like fashion, laws distinguished the treatment for soothsayers and robbers from the prospects faced by those who summoned the former or harbored the latter: Constantine stipulated perpetual *exilium* and loss of property for the one who summoned a soothsayer, while the eastern emperor Marcian mandated perpetual *exilium* for those procurators who hid burglars.¹⁶ For immediate purposes, the salient fact is that ranks of the banished could include many who did not fit a criminal profile. For various reasons, individuals may have carried an interest in foretelling the future or protecting those who committed (or who stood accused of having committed) robbery. Again, governors could well have used these standards as a yardstick in their punishment of other offenders who did not take the original misstep but who had enabled it or had done little to correct it. At least in theory, the persons saddled with these punishments could have been, in their pre-banishment lives, individuals of real stature in their communities. From the stratum of the modest procurator to a chief decurion, all could merit banishment by becoming entangled with others who committed more serious infractions.

Finally, banishment maintained deep connections with Roman efforts to preserve the stability of the state and harmony in society. Roman magistrates carried an obligation to protect the stability of their regions by cracking down on rabble-rousers; the techniques employed could include expulsion from that area.¹⁷ The jurists assume ejection could diminish unrest by removing flashpoint figures, though the particular sentence chosen could reflect the severity of the crime. Callistratus comments that *grasatores* (“agitators” or “rioters”) are very nearly *latrones* (“robbers”) and thus merit capital punishment, being sent to work in the mines, or relegation to an island.¹⁸ His word choice and simple description suggest that he has in mind those who mill about and contribute to unrest without spearheading it. *Pauli Sententiae* contains various statements on this theme. This text indicates that those responsible for stirring up seditions and tumults, depending on their rank, faced crucifixion, being thrown to the beasts, or deportation to an island.¹⁹ Merging *ambitus* (illicit striving for government office) with *vis* (violence), it also comments that those who strive for office by bringing together an unruly mob are guilty of unsettling society and thus must be deported to an island.²⁰ For both Callistratus and the author of *Pauli Sententiae*, though, any form of banishment sits at the mild end of the spectrum of measures appropriate for this crime.

That this function of banishment continued in the later Empire emerges vividly in Ammianus’s account of Peter Valvomeres and his banishment to Picenum.²¹ The plain physics of banishment (forcibly taking a person away from a certain area) lent themselves to the aim of crowd control. Those who

tended to incite others could be extracted from one zone and humanely released into the wild.

With this in mind, we can comprehend more clearly one of banishment's primary roles, as a corrective in instances of *maiestas* (treason). In the Roman system, *maiestas* included actions that assisted a military enemy as well as those that insulted the Augustus.²² Unlike the other crimes discussed above, verdicts on *maiestas* normally resulted from alternate jurisdictional frameworks. Those guilty of *maiestas* were probably less likely to stand trial before a provincial governor. When their actions threatened the sitting regime, judgment likely ensued from magistrates closer to (if not right at) the pinnacle of imperial power. Nonetheless, the affinity of banishment and *maiestas* echoes the treatment of accessories just described: aiding sedition could merit a penalty along the lines of banishment; leading (or being seen to lead) an unsuccessful coup would most likely terminate in death.

The connections between *maiestas* and banishment receive little comment from the jurists or, for that matter, in the Theodosian Code.²³ Modestinus comments that in cases when individuals have been relegated or deported for *maiestas*, it is proper that their statues also be taken down.²⁴ This jurist's opinion does not indicate whether these particular *relegati* and *deportati* were primary actors or their accessories. In any case, his inclusion of their statues confirms the suspicion that a person would need to possess prestige and public authority in order to commit an act of *maiestas*.²⁵ Only the statue-worthy segment of the population was likely to threaten the establishment.

It is in the extra-legal materials, however, that we see the significance of banishment for situations involving *maiestas*.²⁶ The history of Ammianus Marcellinus mentions multiple occasions in which those suspected of treason received banishment.²⁷ For instance, in the wake of an unsuccessful revolt by Marcellus in 366, punishments were given to both his accomplices and those who were believed to have submitted to him a little too easily. In the latter group was Phronimius, a Goth who had earlier been made prefect of Constantinople.²⁸ He was sent westward for punishment to the emperor Valentinian, who settled on a sentence of deportation.²⁹

Although there are only occasional allusions to *maiestas*-based banishments in the sources, what they divulge suggests that in cases like these, banishment was common practice and made up part of the standard package of punishments, in which loss of property or honor could be added. It is with this expectation in mind that the fourth-century author Aurelius Victor remarks that under Diocletian, "a novel and inconceivable thing in the memory of humanity took place that in a civil war nobody was deprived of his fortune, reputation, and rank" and that it is an occasion for joy when in the wake of civil war, "a restriction is placed on *exilium*, proscription, and even on punishments and executions."³⁰ Such retributions were so commonplace that the author finds their absence phenomenal.

Even ecclesiastics, when embroiled in the affairs of the claimant manqué, could land themselves in banishment. For instance, Eunomius of Cyzicus earned one of his banishments because he was accused of supporting Procopius in his revolt.³¹ The fact that clergy could merit banishment for political reasons in fact points to one of the significant features of those who received this punishment for their involvement in someone else's coup d'état. In order to qualify for such lenient treatment, one needed to possess some quality that operated as a defense against capital punishment. Conventional rank offered little help in this regard. Perhaps because successful usurpers tended to derive from the highest ranks of society, appealing to one's nobility was of no avail in this case. That bishops in late antiquity found themselves in banishment has been amply attested already. The value of Eunomius's example for the moment lies only the fact that it shows the extent to which accessories to *maiestas* could deserve banishment.

Actual usurpers themselves (that is, those who attempted and failed to overthrow the existing emperor) rarely fared so well. The unsuccessful usurper had committed a misdeed of the highest order and almost certainly met his demise as a result. However, even a usurper might receive banishment if he was lucky. In 414, the Visigothic king Athaulf grew impatient with the broken promises of the western court and in defiance proclaimed a Roman figurehead, Priscus Attalus, as emperor. When his circumstances crumbled, Attalus made an attempt at escape but was captured and sent to Ravenna to stand trial.³² Instead of putting him to death, as would have been usual, Honorius cut off two of his fingers and packed him off to Lipara.³³ Attalus was simply a pawn in a larger game and, perhaps because he himself posed little threat, was let off with a maiming and banishment.

II THE QUESTION OF CLASS

Beyond its purpose as penalty applied to offenders, be they primary actors or accessories, Roman banishment served as the substitute for punishments even worse. As in the previous section, we are concerned with those condemned in a court of law, not with those ejected from their polities via *coercitio*. They could well have been lower class, and we should not exclude them from the picture. However, the question at present is whether and to what degree high social status accompanied the reception of *exilium*, *relegatio*, or *deportatio*. In the Republic, the institution of *exilium* was the prerogative which the accused could exercise in order to short-circuit the judicial process. When expulsion became a punishment itself under the Empire, forms of banishment became largely a legal perquisite of the upper class. Instead of enduring a sentence of death or working in the mines, nobles received a decree of banishment. It was in this capacity that the institution originally flourished.

Matters changed in the subsequent centuries. The standard picture of late antiquity is of punishments gradually becoming more severe and the privileges of higher status steadily but not completely eroding. The consequence of this view is that banishment, the definitive aristocratic shield from less desirable penalties, would have been restricted; or, more precisely, that fewer and fewer of the elites could have taken refuge behind that shield, such that the lower segments of the higher class would have found themselves vulnerable to the non-banishment punishments.³⁴ The study of banishment shows countervailing movements as well. After all, banishment could take on rather severe tones if it entailed the loss of property or citizenship. While it still served as the prerogative of the elites, that function was challenged on multiple fronts. First, it became a less comfortable option for this cross-section, ensuring that those afflicted with it became subject to a genuine penalty. Second, non-elite citizens found themselves increasingly subject to banishment for many reasons. Because *hoi polloi* joined the ranks of the banished, the institution lost something of its exclusivist luster.

A discussion of penology and social status suffers from serious handicaps. Chief among them stands the sources' failure to employ consistent and clear language. In the writings of the classical jurists, there appears only an inchoate system to distinguish between the higher and lower orders and the penalties appropriate to each. *Pauli Sententiae* reflects more formalized language and classification in which *honestiores* and *humiliores* receive contrasting punishments for certain violations.³⁵ This tendency toward lighter sentences for the higher orders constitutes the basic Roman axiom of class and banishment: the elites received it when ordinary individuals fared worse. By the dawn of the later Empire, the list of *honestiores* was comprised of such groups as veterans, decurions, Christian clergymen, *honorati* (retired bureaucrats), equestrians, and those of the senatorial class—*humiliores* were everyone else. Though the historical record does not possess a systematic outline of class distinctions before the law, one probably existed in the minds of litigants and judges. Even if some fuzziness remained at the boundary, the social order can seem obvious to those living it.

In their various discussions, the jurists make mention of banishment's capacity to shield higher-rank criminals from more severe penalties. Many were the occasions for which a higher rank could entitle the miscreant to *relegatio* or *deportatio* instead of the death penalty, forced labor, or a condemnation to the mines.³⁶ In certain others, jurists speak of the banished in ways that read most naturally in reference to the higher classes.³⁷ While the particular infractions need not detain us here, the prevalence of this legal expectation emerges with unmistakable clarity. Importantly, it would be inaccurate to state flatly that the punishment for poisoning (for example) was *deportatio*. For this and other crimes, capital punishment was the norm.³⁸ For the privileged few, however, a variety of banishment could take the place of punishments dreaded even more. In the later

Empire governors must have turned to these standards as their guidelines for sentencing *honestiores*. An assumption that the elites merited relegation or deportation where others deserved death or condemnation to the mines would have steered their decisions in cases involving crimes other than those enumerated by the jurists. The notables themselves must have referred to such policies as a form of precedent when they found themselves ensnared in judicial difficulties. Thus, banishment in these hypothetical (but plausible) instances continued to fulfill one of its traditional roles by offering a less unpleasant sentence to those who could avail themselves of it. This phenomenon ensured that a great many of the banished would have hailed from the upper strata of society.

Yet the question remains whether the punishment was reserved exclusively for the elites. The received wisdom on the subject holds that Roman *exilium* was ever the preserve of the aristocracy.³⁹ However, modern studies have shown the limitations of this interpretation in the classical and early imperial periods.⁴⁰ Indeed, certain of the jurists' opinions within the Digest show that their authors could conceive of lower-class citizens' banishments.⁴¹ Papinian, for one, issued a recommendation that a plebeian who endured temporary *exilium* had opportunity to become a decurion once he had returned.⁴² Though these cases are vastly outnumbered by those that prescribe death or condemnation to the mines for lower-class offenders (and banishment or a fine for higher class ones), they hint that banishment was still a possibility for *humiliores*.

To determine the trends after *Pauli Sententiae* with regard to banishment and class, we are almost totally dependent on imperial laws. While they maintain a class consciousness, they do not adhere to the language of *honestiores* and *humiliores*.⁴³ When assembled, these originally disparate documents begin to reveal some of the general expectations of the age. It may well be that the laws in question were put into practice and therefore shaped subsequent social realities. However, even if magistrates did not conscientiously enforce them, the consistent expectations in various laws reflect the legal patterns of the later Roman world. The stereotypes and assumptions running through multiple decrees hint at a set of the standards. On the whole, the constitutions reveal that imperial consistories associated banishment with the elite but did not shrink from imposing it on the lower orders. The basic axiom of the earlier Empire—that banishment befitted the noble offender—still held. In parallel, there arose a tendency for legislators to shape and modify that axiom in order to fit the varied forms of banishment to an assortment of infractions.

We witness that legal adaption or experimentation in several ways. To begin with, the rare law of the later Empire attests to elite culprits continuing to find refuge in banishment. Constantine's legislation on counterfeiting explicitly maintained the traditional axiom by distinguishing between the grades of penalty appropriate to the social grade of the offender. Decurions received perpetual *exilium*, while plebeians and slaves fared

worse.⁴⁴ Little else in the codes offers a punishment differential that allotted banishment to the higher orders.⁴⁵ However, the association between aristocracy and banishment makes itself evident in other ways. In certain cases, this link becomes implicit as the laws prescribe a type of banishment (typically *deportatio*) for lawbreakers who were elite by definition. Such was the case in Constantine's other laws, those using the threat of island deportation to discourage decurions from marrying slaves and fiscal representatives from concealing records.⁴⁶ In both instances, the laws target high-born or prominent citizens with a punishment that, while remarkable for its strictness, still befit their station. Especially prominent are laws issued by the courts of Honorius and Arcadius, late fourth and early fifth century, dealing with troubles stemming from *ambitus*. One law from the eastern court promised the loss of property and deportation for this act or even the intention to commit it.⁴⁷ The western court twice ruled that deportation stood as the punishment appropriate for illegally holding the same office twice.⁴⁸ While the language of these laws makes no explicit mention of class, the very nature of the crime ensured that one would need to be illustrious enough to hold office in the first place (let alone monopolize it). *Ambitus* was a transgression only elites could commit.⁴⁹ One further law quietly betrays its assumptions with regard to deportation and social prestige. When adumbrating the damages to be endured by one caught diverting the Nile, legislation issued under Arcadius's successor, Theodosius II, fixed strict penalties. The primary actor himself was handed over to the flames at the spot in question; his accessories endured deportation to the Oasis with no possibility of recovering their citizenship, rank (*dignitas*), or possessions.⁵⁰ A humble criminal with no *dignitas* to lose would care little about its forfeiture. Thus, the law harbors a suppressed expectation that those caught in this act and punished in this way were probable members of the upper class. While no sliding scale materializes in these laws, the traditional axiom influenced the assumptions shaping their penology.

Against this backdrop of conventional elitism, the laws of the later Empire complicate the picture in several respects. All show that no absolute division separated the banishment-worthy ranks from those unfit for this punishment. For starters, certain laws offer banishment within a sliding scale of punishments but associate some form of it with those in a humble social position. The emperor Julian, a polytheist, issued a rather stern prohibition against decurions who fled from public service on the grounds that they were Christian and therefore exempt. Julian outlined a gradation of penalties for those who received the curial fugitives—those who were freeborn (*ingenui*) became eligible for *deportatio*, while slaves merited capital punishment.⁵¹ Such a distinction held in further legislations over the next sixty or so years: one under the emperors Valens and Valentinian laid down these penalties for constructing enormous vehicles, and another issued by Theodosius II did the same for persons

who permitted a heretical assembly.⁵² These examples indicate that even when the judicial system turned to a dual penalty, the cutoff point for banishment could exist quite low on the social scale (lower than the one dividing the honorable classes from the masses). Holding, for instance, senatorial rank was hardly necessary when merely free status sufficed. The consequence of this micro-trend is not that elite privileges had trickled down the social hierarchy, but rather that *exilium* in many situations suited virtually anyone, slaves excepted.⁵³ Numerous laws state flatly that *exilium*, *relegatio*, or *deportatio* stood as the proper punishment for certain infractions—such as circumcising a Christian or bringing a legal accusation against one's brother—without hinting at a differential for class.⁵⁴ The existence of these laws is important, as it suggests that banishment was not exclusively an alternative to crueler treatment. It could on occasion punish a given crime regardless of what sort of person committed it. Far from a sign of egalitarianism, these laws reveal that certain authorities throughout the later Empire attempted to impose uncomplicated laws in which banishment was tied to the nature of the crime, not the status of the criminal.

Other laws specify *exilium* or *deportatio* for those whose profession very much makes them seem to be ordinary individuals. Constantius wished to see tradesmen (*negotiatores*) receive *exilium* for carrying too much public money on their own pack animals.⁵⁵ This law was issued in the middle of the fourth century. At the beginning of the fifth, a law issued from Honorius's court targeted bread-makers (*pistores*) who sought to leave their profession through marriage by promising them a scourging, deportation, and the loss of property.⁵⁶ From the eastern court of Honorius's colleague and nephew, Theodosius II, came a law that held merchants (*mercatores*) accountable for setting up markets in regions not permitted by a Roman-Persian treaty. The law seeks to keep commerce flowing without opening up the opportunity for espionage; *mercatores* setting up shop outside the permissible zones faced perpetual *exilium*.⁵⁷

Laws such as these provide invaluable material for reconstructing the identities of the banished, but simultaneously demand careful interpretation. What they expose, without question, is that several imperial consistories assented to the proposition that *exilium* and even *deportatio* befitted commoners.⁵⁸ We can conjecture with confidence that lower magistrates put these policies into practice on occasion. However, the very nature of the laws themselves points to a limitation on their implementation. A law such as Honorius's measure against the bread-makers was designed to shore up ranks of food producers. Its penalties sound very impressive in principle, but if they were enforced extensively, the deporting of too many bread-makers would in fact lead to a bread shortage. It seems probable that local officials, the ones who would have been both responsible for policing the policy and the very same ones confronting hunger and its ramifications for the public order, would have been loath to impose

it on anything more than the most modest scale.⁵⁹ Quite apart from the moral repugnance involved in ordering a person scourged and deported for their decision to marry outside the guild, applying the law too extensively could subvert the law's intention as well as create difficulties for the magistrate himself. Nevertheless, we should make note of the fact that the types of persons subject to banishment include not just felons, their accomplices, and aristocratic criminals. In these examples, Roman social engineering (in the benevolent sense of wishing to see the masses fed and the market regulated) could lead to someone's banishment.

Certain of the laws prescribe banishment within a sliding scale of punishments, but do so in such a way that it becomes the odious fate of the more humble, with the higher classes receiving an alternative more desirable still. This arrangement preserves the traditional axiom even while banishment has moved from the more honorable side of the line to the more humble. Laws on mundane topics over the fourth and fifth centuries exhibit this pattern. Constantine, in one instance, ruled against the use of clubs on post animals, stipulating demotion for offenders of advanced rank and deportation for common soldiers.⁶⁰ Theodosius laid down the consequences for those who would fail to report a deserter. Scofflaws whose rank made them vulnerable to physical punishment faced a beating and a stint in the mines, and perhaps perpetual *relegatio* to boot. If offenders held a higher rank, they were charged with a fine and the task of producing ten recruits for every one sheltered.⁶¹ In much the same vein, the reign of Theodosius's son, Arcadius, saw a law issued which prohibited travelers from co-opting imperial palaces as travel lodging. Those with wealth or *dignitas* on their side were liable to a fine; *humiliores* faced *exilium*.⁶² Under Theodosius's other son, Honorius, the western court issued legislation attempting to curb legal shenanigans; it stipulated vaguely that curial criminals ought to receive the punishment mandated by the laws and that those among the lower class, as they had no status to forfeit, stood in jeopardy of *exilium* (which suggests that the punishment for the higher status offender may have been the loss of rank).⁶³

In these cases, banishment did not serve its conventional role as an elitist substitute for a more draconian punishment. All the same, these policies maintain the ancient axiom of the dual penalty system, because elite status continued to impart favorable penalties for its holders. At the same time, this legislation, while scattered, attests to a willingness on the part of imperial consistories to modify the classical heritage in order to make traditional punishments fit new purposes. This willingness to reshape the paradigm means that there can be no absolute dividing line between the social classes who could become *exules*, *relegati*, and *deportati*. Despite the persistence of the penalty differential, banishment came to sit on both sides of the divide.

Given, then, that banishment reached considerably down the social scale, how low could it go? We have just witnessed the laws' tendency

to prescribe banishment for anyone holding free status on issues such as hiding runaway decurions, constructing oversized vehicles, and allowing heretics to meet. All the same, there is enough evidence to warrant the tentative conclusion that slaves suffered banishment as well, though only in very rare circumstances. Legislation from the emperor Constantius betrays its assumptions that its violators would be servile. In his instructions to the urban prefect of Rome, this emperor ruled that two sets of punishments applied to “anyone” (*quis*) caught in the act of demolishing a tomb. One who committed this offense without his master’s knowledge was sent to the mines; those whose master commanded them to demolish the tomb ought to receive relegation instead.⁶⁴ The factors mitigating the possible punishment illustrate that originally the issue must have concerned servile tomb-raiders, and thus its purview was rather narrower than what we might deduce from its use of *quis*. Apart from this, there exists a regulation of Theodosius I establishing the rules of correct dress within Rome. This law prohibited senators from wearing military garb, apparitors (*officiales*) from exposing their breasts, and slaves from wearing shaggy coats if their masters were in the imperial service.⁶⁵ Should any of these crimes of dress occur, the senators were to lose their rank but the apparitors and slaves—“who are unable to undergo a loss of *pudor*” (shame, honor, modesty)—must receive a sentence of *exilium* instead.⁶⁶

While these laws indicate that there was no absolute “glass floor” limiting banishment to the higher orders of society, the logical inference from these mandates should not carry too far. In the case of Theodosius’s law, it is not that the law’s framers consider banishment as a device unconnected with status indicators, but rather that they recognize that a punishment which *only* altered status (such as a demotion) would be insufficient. When Theodosius stated that slaves and apparitors should suffer *exilium* because they have no *pudor*, he indicated that this punishment did more than humiliate. In other words, it fit the situation because it not only humbled the victim (which was a non-issue here), it displaced him (which was). Further, these exceptional laws seem to employ banishment in part to treat members of the servile class as surrogates for their masters. The point is important because it suggests that the purpose of such laws was as much, or more, to inconvenience the master as to penalize the slave. This aspect may explain the awkward use of banishment against slaves. On the face of it, slavery and banishment work at cross purposes. Their masters were not likely to appreciate their slaves being banished, which seems to be the real intention.

In total, the laws of the later Empire create the unavoidable impression that the imperial courts found nothing unusual in specifying some form of banishment as a penalty on minor figures. While the evidence is far too scanty to support any rigorous depiction of exiles’ social distribution, the data suggests that a graphic presentation would probably look like a sloping curve. In this curve, the highest concentration of exile would correspond

to the highest echelons of society and the incidence would taper off further down the hierarchy.

III MAGISTRATES

To this point in the chapter, the discussion has stressed the civilians who were condemned by magistrates. The latter could also end up banished for various reasons.⁶⁷

From the laws, three rough categories of persons appear under this heading: provincial governors, their staff, and miscellaneous other office-holders in the provincial and administrative hierarchies. The governors and their retinues seem especially to have aroused the imperial ire. In part, the legislation that predicted dire consequences for these groups did so in order to reassure an aggravated populace that the executive leadership would not tolerate misconduct from its representatives. In fact, a preponderance of later Roman laws promises retribution for corrupt or indolent magistrates. While the laws of this type of course carried a rhetorical function, that dimension was an instrumental part of the imperial court's self-presentation.⁶⁸ The question remains whether laws of this type exist exclusively for rhetorical and propagandistic reasons or if they were executed from time to time. Without sufficient evidence from extra-legal sources, we cannot answer this with certainty. It would have required a brave provincial to bring his local governor to the attention of a superior magistrate. Communication was often slow and, if it did not produce swift results, this gambit might only serve to enrage the local authorities. At a minimum, the abundance of laws which speak of banishment enforced upon administrators shows that a multitude of imperial administrations saw this outcome as a just and plausible one. How we choose to view the limited evidence comes down largely to hunch. To my mind, it seems that provincials would have had the most success taking action against members of the governor's staff. The loftier and more remote a magistrate was, the more difficulties stood in the way of his being prosecuted by oppressed provincials. In any event, it seems incredible that magistrates and officials could have been banished (or punished in any way) nearly as often as were civilians.

In the case of governors, there existed clear-cut (or mostly so) categories of malfeasance, sufficient for banishment, as well as forms of inactivity that suggested complicity in others' error. Because their role was primarily one of adjudication, they were threatened with punishments if they should punish the innocent or tolerate the guilty. That is, the laws treat matters as though judges could only dissent out of recalcitrance or corruption. Of course, the governors themselves might have had compelling reasons for assessing innocence and guilt differently, but the black-and-white outlook of the laws does not factor this in. Some of the reasons that could land the

governors in banishment fit into the expanded mold of *ambitus*, an ancient category for candidates who corrupted elections for office.⁶⁹ Others sit imperfectly at the margins, where regimes treated governors who declined to punish another's crime nearly as the criminal's accessories. Thus, this phenomenon blends many of the elements already adduced, in particular criminal activity itself, acting as an accessory, and legal privilege.

A sampling of legislation will bear out these trends. In 380, Theodosius I attempted to curb the practice of letting the accused languish in jail (the Romans did not officially use a prison system as a form of punishment; jails were employed as holding tanks for those awaiting trial).⁷⁰ Fixing the penalties for those who permitted this to transpire, the enactment informed the praetorian prefect Eutropius that the judge was to be banished (*extorris*) and receive a fine of ten pounds of gold (yet retaining the remainder of his wealth) while his office staff stood liable to a fine of twenty pounds of gold.⁷¹ By contrast, the court of Theodosius's son Honorius sought to stop magistrates skimming from the urban tribute. This law imposed a precise schedule of penalties on those administrators who permitted this abuse: while both the magistrate and his officials were to pay double what they had appropriated, the judge himself was to suffer *deportatio* and the leading officers capital punishment.⁷² Financial concerns again surfaced in another law of Honorius's, one which promised *exilium* for anyone who loaned money to his local governor and to the governor who accepted the loan.⁷³ Whether or not the money-lender ended up in this governor's court, the action threw too much suspicion on the process of justice. Near the end of our period, the eastern emperor Leo I issued legislation barring non-Catholics from serving as an advocate in virtually any legal court. If somehow a heterodox advocate were allowed to sneak in, a governor faced a sentence of *exilium* for five years while his staff was liable to a hefty fine, one hundred pounds of gold.⁷⁴

These laws illustrate not only the perils that awaited an unwary governor but those that threatened the professional staffers who supported him. These men, the *officiales*, were permanent professionals rather than temporary politicians.⁷⁵ Rarely does the latter set of punishments include a form of banishment, but a small pool of evidence indicates that this was not out of the question. Near the beginning of the later Empire, Constantine ruled that governors had to sign their own name to their responses. An assessor who signed on the governor's behalf merited *exilium*, and the governor was to receive worse treatment.⁷⁶ In 385, Valentinian II endeavored to make litigants bring their suit in the proper forum and governors hear them in a reasonable timeframe. He prescribed a fine (equal to the amount at stake in the case) for any judge who postponed justice and *deportatio* for the leaders of his staff.⁷⁷ Though it occurred just beyond the limits of this study, a law of the eastern emperor Zeno is relevant, for it shows the lingering expectation that members of a gubernatorial staff could deserve *exilium*. The misdeed in question concerned auditing city finances. If this occurred, the staff

leaders were sentenced to perpetual *exilium* and the loss of their property (the governors themselves suffered a fine of fifty pounds of gold).⁷⁸

Finally, scattered and patchy evidence attests to similar trends in other corners of the Roman government. One such, in the later fourth century, threatened one year of relegation for the officials who oversaw the depots of the *cursus publicus* if these men allowed more than five posthorses to leave on a single day.⁷⁹ Given how lenient this punishment is (by comparison), it seems probable that authorities recognized the difficulties which ensued when posthorses were spread too thin and so devised a universal standard for deployment and a modest penalty to give it some consequence. If we doubt that this policy received much enforcement (as I think we should), it still stands as an indicator that consistories could imagine temporary *relegatio* for bureaucrats of this sort. At the end of the fourth century, Honorius's court set down limits on the number of people allowed to enter the imperial service.⁸⁰ Keeping careful track of those on the registers was therefore an important task; *adjutores* who mismanaged it could see their property confiscated and their lives upended by *deportatio*.⁸¹ Two further laws passed under Honorius hold out banishment for municipal authorities who defied the imperial agenda. One charges the lead decurions and *defensores civitatum* with keeping curial candidates in place, lest the latter evade their duties, on pain of *relegatio*.⁸² The other targeted elicited forms of religion and laid down *deportatio* and the confiscation of property for those decurions who allowed such things to happen on their watch.⁸³

In their presentation, the laws make the issue seem to be a simple one of ineptitude: magistrates had a job to do but failed to do it. They boil a complex situation down to incompetence. There do survive many extra-legal accounts lamenting the wickedness of later Roman governors.⁸⁴ Any given miscarriage of justice could be the result of personal failings or of professional incompetence. Veniality certainly existed, but we must seek richer explanations if we are to recognize the character of the persons likely targeted by such laws. The governors' world was far more entangled than what the laws choose to admit. They were caught up in competing schemes of justice and social organization such that they had to weigh patronage and local alliances against the dispassionate application of abstract legal principles. To exacerbate matters, a governor could be called upon to judge his social superiors, which could make his life potentially very uncomfortable.⁸⁵ When it came to matters of religion, a further wrinkle was introduced. Any given governor could well doubt the theological views of the imperial court (indeed, the laws seem to assume as much). In that case, he would have to balance personal commitments with professional marching orders. Even if he did assent to the theology of the sitting regime, it would have still been reasonable to value concord, in the church as well as in his immediate community, as much as any particular doctrinal cause. If so, then repressing other Christians would have cut against the grain. Finally, lower magistrates (gubernatorial or otherwise) might have principled reasons for

resisting the designs of the imperial court. Just as they were called upon to banish others, their reticence to do so could lead to their own banishment.

IV RIVALS

Naturally, the banished included many who committed legal infractions for which they were condemned. It is also true that they were joined by some who became vulnerable because they had incurred the personal animosity of some influential person or faction. In those cases, the judgment upon the banished might involve a legal verdict to cover up the power tussle. In extreme circumstances, participants might not have even bothered with a pretext. Whether we find in the surviving evidence a legal justification or not, it is important not to work entirely within the Roman legal framework as though only criminal deeds led to banishment. To recover something of the banished themselves (not just the juridical apparatus), we must hypothesize on the often complicated, even unrecoverable, affairs behind many occasions.

Private antagonisms could lead to banishment in various contexts. In the middle of the fourth century, the rhetor Prohaeresius excited jealousy among his fellow sophists. We encounter the affair in the pages of the *Lives of Sophists*, a work composed by the sophist Eunapius at the very end of the fourth century.⁸⁶ This episode, though revealed to us only in outline, exhibits something of the dynamics likely pervading other occasions. Because it concerns sophists instead of clergymen, the event provides evidence outside of the most common avenues.⁸⁷ Prohaeresius was Eunapius's teacher and one of a crowd of sophists in Athens.⁸⁸ Eunapius describes a protracted affair. First, Prohaeresius's rhetorical supremacy and position of strength in Athens engendered a wave of resentment among the other sophists. They bribed the proconsul into banishing Prohaeresius and apparently into confiscating his wealth as well (suggesting that this was a case involving more than simple *coercitio*).⁸⁹ However, Prohaeresius returned from this banishment, which Eunapius attributes to good luck and the combined favor of the emperor and a new proconsul.⁹⁰ As Eunapius has it, Prohaeresius's rhetorical skill alone made him the target of his peers' animus. In addition to purely academic talent, Prohaeresius seems to have displayed a better knack for developing a student base—a significant fact in that competitive atmosphere.⁹¹ At bottom, contention arose between different members of the same social clique. Eunapius, the only source for this affair, clearly sympathizes with Prohaeresius, but his account lays bare the kinds of psychological forces at work. The ejection no doubt rested on some legal pretext, but it was ill-feeling between the sophists themselves that caused Prohaeresius's banishment.

In the political sphere, banishment served as a convenient means to eliminate the opposition. We hear more of it at the highest echelons of power, perhaps because the fall of a very illustrious personage had a sensational quality. Certain affairs of this sort have arisen already. First, the "native"—banished

under Constantine and immortalized by Firmicus Maternus—seems to have run afoul of influential enemies.⁹² On one hand, Maternus relates that the native himself did in fact commit adultery.⁹³ On the other hand, the author also stresses the point that Jupiter mobilized his enemies against him as well as his father (who we are given no reason to believe committed adultery). He notes the “incessant plots” against the son and the “great many enemies” against both men.⁹⁴ In fact, both points may be valid. It could well be that the crime served as a pretext for settling other scores. Even though Maternus does not disclose the cause of this antagonism, the correlation between enemies and banishment surfaces clearly. Second, the case of Timasius appeared in the context of exilic escorts.⁹⁵ This episode’s fuller details become relevant here. Zosimus himself presents a few complications. As a historian, he depended heavily upon his sources and on Eunapius’s lost history in particular.⁹⁶ In any event, Zosimus’s process as a historian does not seem to alter the basic outline of events. Zosimus (or Eunapius) relates that Eutropius, grand chamberlain in the eastern Empire, wished to consolidate his position in the imperial court. Because the general Flavius Timasius represented a potential source of competition, Eutropius concocted a treason charge against him which culminated in the latter’s banishment to the Egyptian desert.⁹⁷ Third, Eutropius himself endured a similar fate when his tenure in Constantinople was cut short by the Gothic general Gainas (alluded to earlier in the discussions of terminology and his faithful guards).⁹⁸ Resenting the position and dignity which Eutropius had amassed, the Goth used his military strength to demand his ouster. In a temporary compromise, Eutropius was banished to Cyprus.⁹⁹ Significant here is the fact that when two actors each acquired considerable authority and prestige, both represented a potential danger to the other. Banishment (temporarily) signaled Gainas’s outmatching his rival.

Banishments ensuing from personal hostility often revolved around power tussles. Another affair involving Gainas also exhibits the dynamics of personal ambition and antipathy that could underlie banishment. In this case, a variety of sources comment on the episode. Once Eutropius was out of the way, Gainas identified his next greatest source of competition in the consul Aurelianus, the ex-consul Saturninus, and the count John. From his position of strength, Gainas demanded that the emperor Arcadius hand over these three, which at least in Aurelianus and Saturninus’s case, the emperor did. The bishop of Constantinople, John Chrysostom, pleaded their cause with Gainas, who contented himself with his prisoners’ banishment.¹⁰⁰ Here, the victims of Gainas’s schemes received banishment because they held influence that could come into opposition with Gainas’s interests. That is, they did not perform a particular action that occasioned their banishment, but were caught up in a political zero-sum game. The fate of these individuals clearly cannot be attributed simply to some specific crime that they committed. Of course, the charge of treason was the legal fig leaf employed, but the root cause lay in the competition for power and ensuing vendettas.

The fact that Saturninus appears in this short list of powerful rivals makes evident that even those who had laid down their office could still pose a threat. Several such cases appear in the history of Ammianus Marcellinus, such as Palladius, a former master of offices (other examples include Parnasius, the ex-prefect of Egypt; Taurus, the ex-praetorian prefect; Saturninus, the former steward of the household; Cyrinus, the former secretary; Memmius Vitrasius Orfitus, the ex-prefect of Rome; and Hymetius, the ex-proconsul of Africa).¹⁰¹ Palladius's downfall occurred in 361 when Julian acceded to the purple.¹⁰² We have seen the same pattern take place at the "Commission of Chalcedon" as well.¹⁰³ One could be the subject of a vendetta without holding an official position of power. Former allegiances or deeds could suffice to make enemies who wished to seek revenge or secure their own position by banishing potential rivals. Trumping up specific charges, treason in particular, then served as the legal basis for extracting revenge against present or lingering rivals. Banishment was a typical result of this process.

How much do these spectacular examples reveal about banishment's role among the more common and less illustrious sections of society? Perhaps little. We have no way of knowing whether, say, bread-makers pursued their personal quarrels to the same extent as did sophists and generals, but it seems unlikely that they would have used the same techniques when they did. Nevertheless, these episodes indicate that banishment could be the centerpiece in a "compromise deal" in which the state of a person's guilt was open to serious doubt but powerful parties wished to see him condemned. It remains possible that banishment could serve in this capacity for the ordinary citizens of the later Empire. Still, as banishment tended to correlate with the higher orders, it is more probable that notables enjoyed the relative comfort of banishment when they fell prey to an antagonistic rival.

V RELIGIOUS DISSIDENTS

Even applying the word "religion" to the broad range of observances, values, and modes of worship operative in the Roman world is problematic. The modern concept of religion—something like an interior sense of deity and ultimate purpose—does not translate smoothly to that context. The classical Roman term *religio* called up associations of conscientiousness and scruples in divine matters while the Greek word εὐσεβεία (the closest approximation of "religion") referred primarily to piety.¹⁰⁴ Nevertheless, the legal literature of the period harbors a notion of some type of infraction centering on the ways that humans relate to the divine. In fact, when the Theodosian scribes of the fifth century organized their collection of imperial pronouncements, they used this principle to group together many disparate constitutions. The scribes committed one book of the Code (the sixteenth) to legislation treating topics that encompassed proper Christianity, Christian

heresy, Judaism, Manichaeism, and paganism. Clearly, then, the Theodosian world knew some notion of religion that included (to them) true and false versions of that category, whether or not it aligns seamlessly with our own. Without getting mired in a protracted discussion of this analytical category, I suggest that the evidence warrants our taking it as an organizing principle of many of the occasions for banishment. Bishops and emperors alike had an interest in seeing it correctly practiced, and banishment often arose in that context.

To this point, we have encountered several examples of banishment used in the service of promoting orthodoxy. The second chapter argued that this phenomenon expressed an evolving Christian worldview in which sectarianism polluted and banishment protected. Still, there were larger currents at work leading to expulsions within the church controversies. The preceding sections of this chapter have introduced factors which bore upon the handling of bishops. As holders of ecclesiastical status, they were members of the elite. As priestly experts and indispensable social functionaries, they performed tasks essential to the well-being of society.¹⁰⁵ The trend of banishment among rivals goes some distance toward explaining the prevalence of expulsion in post-Constantinian Christian communities. The rewards of high ecclesiastical office and triumphant theology were great. The churchmen of the fourth and fifth centuries would have been inhuman not to be affected by their allures. It remains to contextualize the banished clergymen against other religious exiles.

Even in the works of the jurists, who wrote before emperors began to support Christianity, we find the notion that banishment could correspond to violations of a religious nature. These statements in part presage the policies of later authorities. For instance, they relate that those who despoiled a temple could, especially if they held a higher rank, merit deportation to an island.¹⁰⁶ Of course, temple violation was a form of sacrilege by virtue of infringing upon land set aside for its deity. However, a temple robber did not necessarily subscribe to a misguided system. His was a transgression against the regulations governing sacred space, but it did not consist of a commitment to an alternate or illicit cult. The affinity with later religious offenses is therefore slight. Modestinus, though, cites a rescript of Marcus Aurelius to the effect that those who stir up *superstitio* deserved to be relegated to an island. Tellingly, Modestinus explains that if anyone should do something “by which the fickle souls of men are terrified by *superstitio* of the divine will,” they would merit this punishment.¹⁰⁷ The jurist seems to envision a crime consisting of public disturbance as much as religious misunderstanding. *Pauli Sententiae* harbors a similar linkage, noting that introducers of religious novelties “from which the minds of men are disturbed” should be deported if they were of higher rank (*humiliores* merited death).¹⁰⁸ Again, the infraction merges commotion with religious innovation. Suggesting an increased interest in that subject at the beginning of our era, this same source mentions several other forms of religious infraction

in connection with banishment: tomb violators receive deportation to an island or condemnation to beasts or the mines (depending on their rank); likewise, Jews who circumcise their slaves face deportation or capital punishment (probably based on rank, though this is not mentioned).¹⁰⁹

The later Empire drew from this heritage but with important innovations. To begin with, there eventually appeared a trickle of banishment legislation aimed at Jews and pagans. The social position of Jews in the increasingly Christianized Roman world is a complicated topic in its own right.¹¹⁰ While Christian emperors issued several pieces of legislation on the topic, only under Theodosius II does anything come to light involving banishment. In fact, the court of Theodosius II issued several pronouncements on the subject of the Jews and modestly asserted Jewish rights of religion and property ownership.¹¹¹ Conversely, any Jew who circumcised a Christian stood liable to perpetual *exilium* and the proscription of his wealth.¹¹² This is a very specific infraction; Jews were not subject to banishment merely for engaging in circumcision or other dimensions of their religious practice. Naturally, the accusation of having circumcised a Christian could surface as part of a campaign of harassment, but it seems unlikely that many Jews became exiles for this reason.¹¹³ Likewise, the relationship between pagans and Christians in the later Empire is a vast subject, but one that concerns banishment only dimly.¹¹⁴ Pagans developed a minor vulnerability to banishment under Theodosius II. A law promulgated in June of 423 commented that any pagans caught in the act of sacrifice, “though they ought to be subjected to capital punishment, proscription of goods and *exilium* will control [them.]”¹¹⁵ *Prima facie*, this law does not inspire the historian with great confidence that it was widely practiced. Indeed, another of this emperor’s laws, issued fifteen years later, remarks about the pagans that “the thousand terrors of the promulgated laws do not restrain them, nor does the punishment of *exilium* which has been commanded.”¹¹⁶ The paucity of evidence gives the strong impression that pagans and Jews just might have been banished for reasons directly stemming from religious practice, but those who were could not have numbered very many.

Two other religious (or quasi-religious) groups appear in greater abundance in imperial legislation: astrologers and Manichaeans. Astrology hardly presented itself as a distinct religion, though—as a technique for recognizing the hidden powers which guided the universe—it did occupy a space in the ambiguous intersection between philosophy, religion, and science. For centuries, Rome had issued sporadic decrees ejecting practitioners of this art.¹¹⁷ Although authorities in the later Empire continued to suppress astrological consultation, social circumstances forced tactics and techniques to evolve. The shifting relationship of Rome the city to the rest of the Empire made the earlier forms of repression inadequate. The established mode of containing astrology dealt with it by keeping the heart of the Empire—Rome and Italy—more or less free from its presence. But as the ancient core of the Empire diminished in importance and residents of

the provinces gained Roman citizenship, the old ejection technique ceased to suit the situation.¹¹⁸ Thus in 294, Diocletian interdicted astrology (whose practitioners were now known as *mathematici*) throughout the Empire.¹¹⁹ Protecting Romans by sending the astrologers to the provinces made little sense once the provincials had been declared Roman. From approximately the same time, *Pauli Sententiae* voiced an expectation that certain actions involving astrology merited punishment. While it is not prediction per se that falls under censure, using occult means to inquire about the longevity of the Roman state, or even, if one is a slave, about one's master, was singled out for punishment. This source calls for the death penalty when one offers an oracle about the state and the mines or deportation to an island when the consultation concerned a slave's master.¹²⁰ It also offers a more restricted prescription for soothsayers (*vaticinatores*), bidding them first expelled from the city and, if they persisted, chained and subjected to *relegatio* or *deportatio*.¹²¹ According to *Pauli Sententiae*, these forms of inquiry upset the political order and hence deserved to be suppressed.

Christian emperors were unlikely to embrace astrological speculation, but the severity of their response and the techniques for repression were determined by factors other than the legal heritage.¹²² Constantine was the first emperor to face this conundrum from a Christian perspective, and his legislation on astrology sits at the crossroads of old and new trends. Like Diocletian, he sought to eradicate astrological practice throughout the Empire. His constitutions herald a new direction, however, in that they see astrology as wicked rather than merely politically destabilizing.¹²³ Instead of seeking to curtail astrologers, Constantine ordered their death.¹²⁴ While this law appears to walk a careful line between condemning traditionally acceptable aspects of Greco-Roman religion and allowing practices distasteful to church authorities, it also prescribes *exilium* for the individual who summoned the astrologer.¹²⁵ Over the next century and a half, emperors maintained an anti-astrological line even while certain changes crept into their laws. Under Constantius, the seditious aspects of astrology took on frightful implications.¹²⁶ It was under this emperor that the trials conducted by Paul "the Chain" took place, sending Simplicius and Parnasius into banishment.¹²⁷ Through the middle of the fourth century, imperial laws on this subject strove to curtail injurious magic and that which constituted *maiestas*.¹²⁸ Eventually, though, the treatment of astrologers became bound up in the way that authorities handled another religious problem.

At the beginning of the fifth century, a law issued under Honorius highlighted astrology's pernicious aspects far above the politically destabilizing. *Mathematici*, it stipulated, were to be deported unless they took a decisive step: burning their books under the watchful gaze of their local bishop and then converting to (Catholic) Christianity.¹²⁹ The law designs a process to deal with astrologers as though they were wayward religionists. The solution it proposes is one of forced conversion, and it points to the effect of the long struggle with Christian sectarians on authorities' handling of other

matters. This grew more explicit under Honorius's nephew Valentinian III, who issued a law bringing astrology and other errors into the orbit established by heresy. It read, "we enjoin that Manichaeans and all heretics, whether schismatics or astrologers [*mathematici*], and every sect hostile to the Catholics ought to be banished [*exterminari*] from the very sight of the various cities, so that they [the cities] indeed will not be polluted by contagion from the presence of the criminals."¹³⁰ Once again, we cannot press the language of imperial laws too far, but in this case what it says literally coheres exactly with what it lays down legislatively: the overarching category "heresy" now includes the subsets "schism" and "astrology."

Of course, Honorius's law also mentions the other major target of religious banishment—the Manichaeans—in the same breath. This represents a significant choice on the part of those fashioning the laws. A contrast with pagan attempts to repress this movement is instructive. In 297, Diocletian fixed severe penalties for Manichaeans. Because this group, the emperor claimed, unsettled the peaceful Roman populace with a pernicious teaching originating in Persia, the group's leaders and their texts were consigned to the flame, while followers who refused to recant merited capital punishment (presumably in a less painful manner).¹³¹ It is true that the exotic Persian label which Diocletian attached to Manichaeism can be accepted all too easily as the motive underlying the persecution.¹³² However, it should be quite clear that Diocletian, a pagan and one of the prodigious persecutors of the church, did not repress Manichaeism because it struck him as a defective breed of Christianity or as a threat to Christian purity. Thus, the present question is not how Manichaeans saw themselves or whether modern scholarship tends to see them as influenced by Christian teachings, a separate religion, or a strain of Christianity in a variegated religious environment; rather, it is how imperial Roman persecutors framed the matter. While Christian emperors also viewed Manichaeism as a challenge to the Empire's stability and wished to see its adherents subdued, their legislation positioned Manichaeism so that it became one of the many heresies besetting the faith.

The idea that Manichaeism represented a Christian heresy emerges first in the writings of an anonymous fourth-century exegete known as Ambrosiaster. In his commentary on the Second Epistle to Timothy, this author avers that the Apostle's description of those who creep into houses and bamboozle silly women applies to all heretics, but to Manichaeans most especially.¹³³ The laws pick up this association and, beginning with Theodosius I, a steady stream of legislation implicitly or explicitly categorized Manichaeism as a form of Christian heresy.¹³⁴ Some of this legislation (such as the law of Valentinian III just mentioned) mandated ejection for Manichaeans as part of their effort to eradicate heresy. Prior to Valentinian's law, Theodosius I had ordered them expelled from the entire world, whereas Theodosius II demanded *exilium* of their persons and proscription of their goods.¹³⁵ Strangely, this change was a modestly positive one from

the perspective of the Manichaeans. No longer subject to the death penalty (let alone burning to death), they were now only liable to confiscation and exile. The imperial treatment of astrology and Manichaeism exhibits the massive impact that Christian heresy had on the social imagination. Heresy had become the definitive expression of religious error, so much so that various religious violations became in their minds indistinguishable from Christian heresy. The organizers of the Theodosian Code simply filed the legislation which targeted Manichaeism under the chapter dealing with heretics.¹³⁶ The identification probably seemed self-evident by the middle of the fifth century. Whether this is because observers saw external movements as the parent of heresy or because they adopted heresy as the lens to consider alternative expressions, the linkage had become fixed. By the end of our period, treatment of heretics had established the pattern for treatment of other dissident religious movements.

To return to this issue of this chapter, we must still ask whether Manichaeans were banished frequently in practice, not just whether certain laws demanded that they be. Given that the association of Manichaeism to heresy appears in legal and extra-legal sources, it gives the sense that many Christians held this assumption and that it was therefore not merely a convenience adopted by the consistories in their efforts to contain religious practice. If so, then many a provincial governor or urban magistrate, if confronted with a case of Manichaeism, would easily have turned to anti-heresy policies, even if he was not acquainted with the most recent imperial statement on Manichaeism in particular. Banishments were a likely outcome in that milieu; indeed, we know of certain illustrations. Readers will recall that Priscillian's enemies used the accusation of Manichaeism to secure his banishment.¹³⁷ Augustine also reports that Faustus (a "genuine" Manichaean) experienced *relegatio*.¹³⁸ Alongside these known cases, it stands to reason that there were many others which have been obscured through time.

VI WOMEN

A final group deserves our attention: banished women. Their existence signifies a complicated but important instance of banishment taking place at the intersection of deed and status. Women who incurred banishment often held some form of notable rank, but the very fact that they were women affected their position in society. They thus represent a social caste, but hardly in a straightforward way.

The long history of this phenomenon begins with the banishing of the Juliae under Augustus.¹³⁹ For moral delinquency, the first emperor banished his daughter, Julia the elder, and later her daughter, Julia the younger.¹⁴⁰ Like so much of Augustus's reign, these events exerted an influence on Roman customs in the following centuries in that they exposed empresses

to banishment and connected banishment with violations of sexual mores. Later Augustae also fell prey to this punishment; we will return to them in a moment. It must be noted, at the outset, that banishment applied to women apart from the imperial household.

First, there is the tangled matter of the *Lex julia de adulteriis*.¹⁴¹ Its punishments (for wives who slept with men other than their husbands) have not been preserved neat. At some point in the process, they came to include *relegatio* for the *adultera* and her paramour. In the late third century, *Pauli Sententiae* remarked that “it has been determined” (*placuit*) that the pair should forfeit a portion of their properties and endure relegation to separate islands.¹⁴² Just when this determination occurred is a subject of debate.¹⁴³ Constantine was thought to have upgraded the penalty to death, but this appears to be misguided.¹⁴⁴ For immediate purposes, it matters little. Even if Constantine had escalated the scale of penalties, it is impossible to believe that magistrates sentenced to death every woman caught in adultery, completely abandoning the earlier precedent of relegation. Relegated *adulterae* must have existed in the fourth and fifth centuries.

The Digest contains multiple juristic opinions that presume the banishment of women for reasons beyond adultery. To begin with, the jurists introduce the idea that women who tampered with a pregnant womb could find themselves in banishment. Their discussion does not mirror modern censure of the practice.¹⁴⁵ Instead, multiple jurists seem to draw from a ruling issued by Severus and Caracalla to the effect that a woman who obtained an abortion had shamefully deprived her husband of children and, for this reason, ought to be punished with temporary *exilium*.¹⁴⁶ It is the jurist Marcian who passes along that rescript (without issuing further comment). The same ruling may well stand behind two further comments from the jurists. First, the late second/early third-century jurist Claudius Tryphoninus discusses of a very particular kind of case, that of a pregnant divorcee who impairs her own pregnancy lest she give a son to her ex-husband. Here too, Tryphoninus argues for temporary *exilium*.¹⁴⁷ Second, Ulpian advises governors to impose *exilium* on a woman proved to have injured her womb for the sake of an abortion.¹⁴⁸ In each of these, the guilty party is a woman and the infraction involves interfering with her own pregnancy in particular circumstances. Aside from Ulpian, the jurists do not speak of abortion in general (as, for instance, in the case of unmarried women).¹⁴⁹ In a related vein, Marcian also conveys that a *senatus consultum* prescribed *relegatio* for a woman who administered a faulty fertility drug that inadvertently killed its consumer.¹⁵⁰ These rulings target areas of special concern to females. While fertility drugs related generally (but not exclusively) to a topic of interest to women, doing violence to your own womb is an action that only a woman could take.

Some further opinions address the possibility of women being banished for generic reasons; that is, cases that show no evidence of having derived from traditionally female areas of life. Marcian cites a rescript of

the emperor Antoninus about a banished woman which contains several important facts.¹⁵¹ First, the mother of a certain Ulpianus Damascenus had been deported. Second, Ulpianus himself had also been deported. Third, both Ulpianus and his mother petitioned the emperor that he allow her to bequeath her fortune to her son, revealing that she must have been a woman of means. That the emperor granted the request is not as significant here as the situation which produced it. Separately, the jurist Ulpian references Marcellus on the subject of a deported daughter-in-law. He does not describe the conditions that could have led to this condition, focusing instead on *deportatio*'s effect on the marriage bond and her dowry.¹⁵² In addition, Papinian takes up the issue of a wife who associated with brigands in order to suggest that, because this did not constitute adultery, she may be exiled (*exulare*).¹⁵³ Finally, we learn of a third-century imperial rescript outside of the ordinary channels. From the middle of the third century, a letter of Cyprian also alludes to a rescript involving women and banishment. At the end of the persecution under Valerian, the Roman senate consulted the emperor on the handling of Christians. According to Cyprian, Valerian's reply specified death for ecclesiastics, loss of status and property for senators and equestrians, and some form of banishment for Christian matrons.¹⁵⁴ These verdicts offer a valuable complement to the jurists' discussions of abortion and fertility. They indicate that legal authorities expected that women could be banished for mundane or gender-neutral reasons as well.

When we come to the later Empire, the evidence indicates that women continued to suffer banishment. Discussion has already touched on certain examples of this trend. Lactantius described the pitiable case of Diocletian's daughter Valeria and her mother Prisca.¹⁵⁵ Not all of the ethics governing the banishment of Augustae had radically changed in late antiquity, as an event from the rule of Valentinian I shows. Valentinian's wife Marina relied on her status to receive a favorable deal on a house, but when the emperor discovered her action through an independent appraisal of the estate, he expressed his displeasure by banishing her.¹⁵⁶ Believing that Caesar's wife must be beyond reproach, Valentinian condemned Marina for her failure to live scrupulously. In the fifth century, another Augusta may have incurred banishment. Galla Placidia, in the wake of her husband Constantius III's death in 421, quarreled with her half-brother, the emperor Honorius. She subsequently departed from the western empire to Constantinople. The sources ascribe different reasons for this, but the fragmentary history of Olympiodorus states that she was banished.¹⁵⁷ If correct, then Placidia represents another in the ancient line of banished Augustae. While their offenses vary greatly, the fact that these women found themselves liable to banishment demonstrates the persistence of this danger for royal Roman women.¹⁵⁸

The imperial laws sketch in a little bit more of the picture. Diocletian and Maximian stated conclusively that a deported mother could not pass

property on to her sons.¹⁵⁹ The vagueness of the law gives it special historical value. The Tetrarchs show no signs of surprise at a *deportata*. Christian emperors established more concrete conditions for which women could incur banishment. Constantine decreed *deportatio* for women who attempted a divorce for any reason other than homicide, sorcery, or destruction of tombs.¹⁶⁰ Honorius reinforced this position in 421.¹⁶¹ A law issued by the western emperor Anthemius used the threat of deportation as a deterrent against unlicensed relationships. According to this ruling, women who attempted to marry their own freedmen lost their property in addition to deportation.¹⁶² Importantly, the focus of this law is women's sexuality, which it seeks to regulate through banishment, specifically *deportatio*. It would seem that the majority of female exiles wore their banishment as a scarlet letter. Be that as it may, we can identify the clear presence of women in banishment and conjecture with a high degree of certainty that they could even encounter this fate for reasons not directly stemming from their womanhood. A female culprit who possessed the proper social rank or who committed particular crimes could indeed end up in banishment.

6 Life in Banishment

To understand the meaning and functions of banishment, we would like to know, ideally, how the individuals enduring it lived their lives. Difficulties abound in the attempt to recover the texture of their experience. Virtually all important aspects of life in banishment are impossible to gauge according to an objective scale. Surely, loneliness characterized the lives of many of those banished. How, though, would we measure the extent of that loneliness? The sense of stagnation or inconsequence that it entailed was no mere function of distance. At any rate, these emotions would beset various individuals in different ways, so there is no average state of being for someone in banishment. Even within subsets of banishment, there would not have been a unique existential state experienced by those under that penalty and only those under that penalty. While deportation clearly outstripped the more trivial expressions of relegation, those distinctions would dissipate as the optional penalties involving rank, possessions, or duration were added on to a *relegatus*'s sentence. There is no neat way to map an exile's mode of existence onto his particular sentence.

To compound matters, the accounts touching on this portion of the banishment cycle are meager. Even more, when they do provide a description of this variety, their presentation immediately raises questions of rhetoric's influence over the author's perceptions. There is good reason to believe, as much recent scholarship concludes, that what we read of their travails reveals the prevailing cultural images as much as the individual's experience.¹ Finally, even when an account steers clear of major tropes, its very nature is to record a single individual's impressions rather than the generic pattern. John Chrysostom's example is instructive. He has given to posterity several responses to his surroundings in Cucusus. At one moment in his correspondence with his friend Olympias, he described his situation, referring to himself in the first-person plural,

And neither the difficulty of the climates, nor the desolation of the locations, nor the trouble of supplies, nor the absence of servants, nor the ignorance of physicians, nor the lack of baths, nor the unceasing confinement in one dwellingplace exactly like in a prison, nor the inability

to move around (which I always needed constantly), nor the unbroken contact with smoke and fire, nor the fear of robbers, nor the constant siege, nor any other such thing has overcome us. But we are in a healthier state than we were there when furnished with much attention.²

John Chrysostom's letter of reassurance gives a complex assessment of the vicissitudes of banishment. It wishes to emphasize the impositions which the exile must overcome, such as deprivation, isolation, and fear. And yet, the ultimate aim of this passage is to assure Olympias that life in banishment was not as bad as it seemed. The passage almost cultivates an incoherent position: it enumerates the adversities of banishment at the same time that it sweeps them away. Readers do not ever really know whether to focus on John's list of laments or his conclusion that they are of no consequence. Additionally, for all of the hardships he endured in banishment—bad digestion, headaches, vomiting, confinement, aversion to the climate—the majority are specific to his unique temperament.³ Another person would almost certainly have experienced the conditions in Cucusus differently. Furthermore, his surprise at the parochialism of his site should be understood as that of a man conditioned to the great urban centers of the eastern Empire.⁴ Cucusus was, after all, inhabited by full-time occupants, including its own bishop. These people really did live there; while to John it felt remote in the extreme, to them it was home. There was nothing inherently unlivable about Cucusus.

In the end, every source in this period describing life in banishment first-hand is, to my knowledge, episcopal: they all are works by bishops about bishops (sometimes the authors themselves) in banishment. That so many clergymen suffered banishment is, of course, a great gift to the historian, but it imposes an additional layer of methodological challenge. With little or no secular points of comparison, it is difficult to ascertain how the unique aspects of bishops' lives affected their banishment outcomes. Accordingly, this chapter begins by noting some of the major thought patterns that influenced episcopal representations of banishment. The norms of late antique Christian discourse nudged their exilic accounts into established directions. We then confront the question of bishops' distinctness by sorting through some of the ways that their post shaped their experience in ways unlike that of their other contemporaries. The remaining sections examine the issues of location, support, and hardships as they applied to individuals in banishment generally.

I THE RHETORICS OF EXILE

Well before the later Roman Empire, banishment had become an ingrained field of rhetoric. Others have tackled this topic ably and there is no need to recapitulate their verdicts.⁵ It will suffice to note two important points.

First, the authors of the later Empire wrote in a world that had already fashioned a set of norms for dealing with the experience of banishment. Second, this rhetoric was no mere accretion that sat on top of genuine experience. Its conventions had become so pervasive that the banished not only wrote according to them, but experienced their realities according to those traditions.

Before turning to the hints and fragments which suggest the qualities of life for the displaced, we must first isolate some of the major trends of the exilic literature in which they appear. This section identifies the main trends by presenting particularly clear illustrations thereof, but does not attempt an exhaustive survey. Though the purposes of this literature was various, its objective was never to document the basic facts of banishment, but rather to frame and interpret them according to agendas that had little connection with the particular episode under discussion.

First and foremost, writings about banishment performed an act of consolation. Their authors sought to provide comfort and explanation to the party banished (and in some cases, to themselves when they suffered banishment). In a particular letter written to his friend Olympias, Chrysostom reflects on the qualities of banishment and contends that Olympias ought not to grieve over his fortune. In this case, it was John, the exile, who consoled Olympias, the native.⁶ In response, John marshaled a number of ideas and arguments to combat her melancholy, and perhaps any sense of despair that he might have shared. A letter dating to the end of 404 states,

Is it the solitude of this place that distresses you? But what is more agreeable than my pastime here? [I have here] rest, stillness, great freedom from politics, and vigor of the body. Even if the city has neither agora nor market, for me this is nothing. For everything flows to me as though from rivers. And I have my lord the bishop of this place and my lord Dioscorus, who are always working on the task of our relaxation. And the good Patricius will tell you how we spend time in contentment, in good cheer, and under much attentiveness.⁷

In John's appraisal, Cucosos's offerings compare well with those that a person might typically expect. The town also affords tranquility, something that urban life does not. In consequence, Olympias ought not to grieve over John's presence in Cucusus. Although an account such as this reads like a sunny flier for some Cappadocian hideaway, it is important to realize that, for centuries, authors had been extolling life in banishment because of the leisure it afforded.⁸ John's account draws heavily from that convention, throwing considerable doubt upon the accuracy of his portrayal of Cucusus.

Additionally, authors represented the plight of the exile by comparison with the lives and deeds of notable personages from the past. These role models, known as *exempla* in Latin and παραδείγματα in Greek, could

establish a pattern for behavior in and reflection on the lot of the banished. For instance, Odysseus, because he was both a hero and one who had wandered unwillingly far from home, made a favorite candidate for classical authors.⁹

Christian authors too crafted their accounts of banishment with the elements provided by their *exempla*. The personnel, however, came to include biblical figures rather than ones culled from classical myth and history. In the later fourth century, Basil of Caesarea turned to the history of ancient Israel to describe the banishment of his compatriot, Eusebius of Samosata. This Eusebius, banished in the 370s under the emperor Valens, had been sent to Thracia at a difficult moment. The Goths were then seeking to escape the onslaughts of the Huns by taking refuge in the Roman Empire.¹⁰ To capture the quality of this situation, Basil invoked figures who also faced a threat of imminent danger:

The Lord has shown in our time that he does not desert his holy ones, for with his great and powerful hand he completely shielded the life of your holiness. And we regard this as similar to the holy man remaining unhurt inside the belly of the sea-monster and the men who feared the Lord living uninjured in the furious fire; indeed he closely guarded your piety when, so I hear, the war has poured around you on every side.¹¹

The biblical parallels in this instance are Jonah and the three Hebrews persecuted by Nebuchadnezzar: Shadrach, Meshach, and Abednego.¹² Basil contends that Eusebius's banishment was akin to incarceration inside a whale or fiery furnace—in each case, perils encircled the protagonists, though God ultimately preserved his elect. Here, too, there appears a form of consolation. Being cast into banishment at a site overrun by barbarians, an apparent calamity, should not dishearten Eusebius. Basil's exposition contends that it does not really matter where the pious go, because God ensures their safety even in the most dangerous scenarios.¹³

In addition, Christians looked to the heritage of martyrdom to contemplate the phenomenon of banishment. Christians after Constantine reflected on the heritage of martyrdom in complex ways, which often influenced the community's self-definition or carried polemical implications.¹⁴ Although the suffering saints of early generations performed the general function of exilic *exempla*, on these occasions, the discourse did not require any particular martyr as specific *exemplum*. To those clergymen banished by emperors attempting to protect the church, their punishment carried multiple implications. Much like earlier martyrs, they found their religious commitments in conflict with imperial policy. Conversely, a cleric almost always ended up in banishment because some group claiming to speak for the true church had branded him a heretic. Banishment was therefore simultaneously a sign of being condemned and a chance to bear up under the coercive power of the state. Describing the endurance of banishment as a trial in

the traditional style was a way of cutting through that knot by claiming that the one who suffered was the one who represented the true, proper, or original form of Christianity.

Documents written to, by, and about Eusebius of Vercelli forged this link between banishment and martyrdom. To begin with, in 355, Liberius of Rome sent a letter to Eusebius and the other bishops who had been banished at the Council of Milan. To Liberius, their subjection to this punishment identified them as victims of persecution:

Though under the likeness of peace, the foe of humanity seems to have raged more violently against the members of the church, your excellent and unparalleled faith has shown you, priests most acceptable to God, even here to be pleasing to God and has designated you now for future glory as martyrs . . . But this will be the palm of your merits, that you will come first to the lustrous glory of confession because of the perseverance of your faith.¹⁵

Even in their present state, the exiles possess martyrial features, concludes Liberius. He indicates that “the brilliant glory of confession” will ensue from their theological obstinacy. The term he uses, *confessio*, indicated a profession of the Christian faith and, in the context of martyrdom, one that boldly addressed hostile non-Christians. Just like the martyrs of old, these bishops, claims Liberius, can anticipate heavenly rewards for their sacrifice.

Eusebius embraced that notion. His letter from banishment drew upon similar language to depict banishment and to bemoan his difficulties under the local bishop Patrophilus. Denouncing his confinement in an inn, Eusebius asked his correspondents, the congregants of his home church, “See, holiest brethren, if it isn’t persecution when we who guard the catholic faith suffer these things! Consider whether it is even far worse now than were the deeds perpetrated by those who served idols! Though [the idolaters] sent [Christians] to prison, at least they did not prohibit their supporters from coming to them.”¹⁶ Eusebius’s letter filters martyrdom through banishment, with the result that an incarcerated exile now eclipses an imprisoned martyr.

This depiction proved to be an enduring one. In some form, the tradition from Liberius and Eusebius must have reached Ambrose, the bishop of Milan, who wrote a letter to the church at Vercelli at the end of the fourth century. The two cities’ recent past gave Ambrose occasion to reflect on Eusebius and Dionysius. Praising and recommending Eusebius to his former congregation, Ambrose repeats the tradition’s key elements, a comparison between the Latin bishops banished by Constantius and earlier martyrs, as well as its conclusions—that the ecclesiastical exiles attained a higher glory than did their predecessors in suffering.¹⁷

Language such as this supported objectives of self-definition on two important levels. First, by offering a distinction between the parties

sentencing and suffering banishment, authors changed exiles into martyrs and authorities into persecutors. This technique has timeless effectiveness; many individuals condemned over the subsequent centuries have been regarded by their admirers as “martyrs.” However, the unique circumstances of the fourth- and fifth-century church contributed an additional layer of import to this discourse. Inheriting the mantle of martyrs had become a decisive means to maintain continuity with the past in an age marked by massive changes and fundamental controversies. If it is true that “the Constantinian revolution inflicted [uncertainties] on Christians of the late fourth century,” then it is also true that later emperors helped resolve those ambiguities by favoring certain Christians with the gift of suffering.¹⁸ Thus accounts of banishment exhibit a fondness for martyrial angles. Later Roman Christianity thirsted for an authentic, suffering brand of religiosity; banishment could slake that thirst. By enhancing the drama of banishment, this rhetoric also hinders any reconstruction. Authors who refashioned the experience of the exiles so that it fit the model of the martyrs were like artists who touched up older works in order to make them more pleasing to the standards of their own period. Whatever the result, it obscures the earlier layers.

II EPISCOPAL PECULIARITIES

It requires a certain amount of guesswork, then, to uncover the respects in which a bishop’s exilic life resembled or differed from that of his secular counterpart. Given our dependence on episcopal materials for what follows, it is essential to suggest some of the prominent factors that likely distinguished the bishop in banishment from other types of exiles.

Relegatio and *deportatio* could involve a loss of rank and of property. For non-ecclesiastical exiles, those deprivations arose as an inherent part of the legal sentence; for bishops, banishment could well impair their social and financial standing, but these measures could not have been official penalties. In regards to rank, bishops held a position unlike ordinary grades of status. For (standard) elites of the later Empire, status was determined precisely by the accord given it by institutions such as the imperial government. The government could, at least in principle, rescind that which it ordinarily chose to recognize. By way of contrast, bishops gained their prominent position by virtue of their standing in the church, and banishment, per se, had no effect on that. The episcopal position was for life, secular penalties having no bearing on the matter. Just as the only means to make a person bishop was by the consecration from other bishops, so too the sole method of undoing this condition was through this college. Naturally, the coordinated effort of condemnation, through a church council, along with banishment, at the hands of imperial authorities, could address both sides of that problem. The kinds of loss of rank that other, non-ecclesiastical

forms of banishment could entail thus were not functional in the case of bishops. The “rank” that mattered was that of bishop. Removing a bishop without first deposing him could lead to strange anomalies, as for example occurred when Constantine banished Athanasius in 335. On this occasion, Athanasius technically remained bishop of Alexandria despite his forced stay in Gaul.¹⁹

Financial matters had a unique dimension as well. Bishops in the later Empire were not deprived of their personal wealth when banished. The laws in the Theodosian Code against religious deviants nearly never call for confiscation of personal property. In the rare event that confiscation is mandated, such as the case in a law promulgated by Valentinian against the Manichaeans, it is only the group structures that are seized.²⁰ But this is not to imply that banished ecclesiastics were exempt from financial penalties. In fact, a bishop separated from his see in late antiquity suffered a *de facto* fiscal punishment. The reason for this lies in the progression of the church’s legal and social status. As time wore on over the fourth and fifth centuries, the churches of the Roman world amassed greater wealth.²¹ The amount of capital was such that managing it became a major occupation. This duty fell largely to the bishop.²² Augustine once remarked that his own patrimony was not even a twentieth of what he oversaw as the leader of his church.²³ Not only were bishops supported by and considered the directors of the church funds, but their personal wealth was frequently indistinguishable from the public trust.²⁴ These factors explain why emperors in the later Empire did not confiscate a banished bishop’s personal wealth: they did not need to. To be physically removed from his see was for a bishop to be deprived of his real assets. In comparison with the assets of the institution, his personal property was typically insignificant. Hence, an additional monetary confiscation would not have been necessary. In effect, bishops were subject to an automatic financial loss when transplanted, whether or not their sentence specified it.

On the other hand, the conditions surrounding the banishment of theologically resistant bishops could lead to distinct forms of financial assistance as well. A high-profile holdout could win the admiration of supporters dispersed across the Empire, even ones nearby. Developing a support network consisting of groups at various places would surely bolster an exile’s position. Writing some forty-five years later, Sulpicius Severus made grand claims about the means of support for the batch of exiles stemming from the Council of Milan.²⁵ “It is undisputed,” he states, “that the exiles were well celebrated by the inclinations of the whole world,” and therefore money was collected for them and deputations from all over came to visit them.²⁶ Sulpicius’s black-and-white portrayal seeks to lionize his theological heroes. The assertion that the entire world esteemed these bishops and came to their aid goes too far. What is credible in Sulpicius’s rendition, however, is his allegation that those who agreed with the pro-Nicene or pro-Athanasius contingent delivered assistance to them. According to Sulpicius, this aid came in the form of money

and visitations. The supporters of this group of exiles were not their personal friends, but were rather people who believed in their doctrinal position and who therefore subscribed to their cause. The salient point is less that the exiles were bishops than that the views that led them into banishment also generated a community willing and capable of offering assistance. Conceivably, a non-bishop could have had similar a backing as well.

Even the location of banishment could be affected by ecclesiastical standing. When authorities sent a condemned bishop to a distant land, they did so not only to remove a resistor but in the hopes of prompting a *volte-face*. The punishment, because it applied coercion but preserved life, intended to alter the exile's perspective.²⁷ When a banished bishop offered signals of repentance, he stood a chance of bringing his sentence to a close; when he persisted publically in the beliefs that led to the punishment, he could make matters worse. In the negotiations that were tacitly conducted through this process, to maintain the same behaviors was to insist that banishment had no effect. It, consciously or not, refused to acknowledge the position, authority, or message of the administration. Another of the casualties at the Council of Milan, bishop Lucifer of Cagliari, bears out this trend.²⁸ In the course of his wanderings, Lucifer was consigned to three locations (or perhaps four, with his journey's end being unknown): Germanicia in Cilicia Secunda, then Eleutheropolis in Palestine, and ultimately the Thebaid in Egypt.²⁹ Along his way, Lucifer defied the emperor's expectation of theological conformity (or, at a minimum, displayed a pugnacious defiance). Over this period, he composed five works upbraiding Constantius. Although it may not be possible to connect the composition and reception of those works precisely with the chronology of his movements, the general trajectory is clear enough.³⁰ Lucifer repeatedly insulted the emperor, endeavored to bring these jibes to his attention, and included the imperial responses in the next piece of abuse.³¹ Constantius endured the insults, yet he still attempted to reposition the bishop in order to discipline him. These relocations describe a clock-wise movement around the Mediterranean, each step taking him further from his see on Sardinia. Like Timasius (the master of the horse and foot conducted by a "public guard" to his banishment), Lucifer ended up in the Thebaid. Unlike the master of the horse and foot, Lucifer found himself at this location only as the final stage in his sentence.

On this point, the question of the potential differences between ecclesiastical and non-ecclesiastical banishment becomes especially acute. Matters would have been substantially different for someone other than a bishop. A secular *deportatus*, respected in his pre-exilic life but stripped of his social rank, would probably not have been able to count on such lenient treatment if he continued to exhibit the same actions in banishment that caused his ouster in the first place. Because banishment attempted to convert bishops as much as to chastise them, relocation suited the occasion. It would have been foolhardy for other exiles to press their luck.

These represent the prominent factors that distinguish bishops in banishment. In many other respects, this difference is less pronounced, even

negligible. In the remainder of this chapter, analysis will seek to comprehend the whole of banishment (episcopal and otherwise), even when it means relying heavily on one of its parts (the bishops).

III LOCATIONS

Despite its many variations, banishment was always a punishment of space. The person banished occupied a place other than that in which he would normally or preferably exist. The punishment placed these persons outside of their ordinary familial and social arrangements.³² Obviously, those who were simply thrown out of a city could go anywhere else they chose. Likewise, *relegatio* without a specific location left nearly the entire world open. We can surmise that many fell under these categories, but as their locations are unrecoverable, they are not the subject of the present section. Instead, it examines the specific places to which exiles were confined. The key element in case after case was remoteness, a factor which is not quite the same as geographical distance. One might be sent somewhere close by “as the crow flies,” but isolated and unreachable. It is important to recall that the Roman Empire did not officially employ prisons as punishment.³³ In the absence of a prison system, banishment fulfilled a similar role; it cut an individual out of his familiar habitat and temporarily or permanently placed him in a holding zone. A cost-effective measure, it utilized geography and intimidation to keep an exile in place.

In terms of broad trends, geography reveals some the distinctions between qualities of banishment in this era and *exilium* in its formative stages. In contrast to Republican Rome, places of banishment tended to be undesirable. In the earlier period, the purpose of *exilium* was to separate a person from the Eternal City. The person going into exile could choose the destination (as long as it was not Rome), which meant that those spots tended to be attractive ones.³⁴ Early in the imperial period, the notion of banishment to a fixed location had come into existence.³⁵ As a consequence of *exilium* becoming a punishment (instead of an alternative to punishment), the places to which exiles betook themselves tended to be less appealing. The bulk of the evidence from the later Empire speaks as though this period’s exiles had their destinations chosen for them. Even in cases when we do not know precisely where exiles were sent, we often know that they were sent somewhere precise. Another outstanding feature of banishment in this time is that individuals could be sent across the Mediterranean world. Easterners such as Athanasius could be packed off to Gaul, while westerners such as Lucifer of Cagliari could wind up in Egypt. Of course, one had to be condemned by the emperor or his court to receive a trans-empire sentence, and the government’s ability to impose such a penalty waned over the fifth century. A migration of this scale would not have been possible without a (semi- or nominally) unified Empire.

In general, some patterns appear in the places chosen to send exiles. The destinations chosen were marked by remoteness rather than utter isolation. Out-of-the-way places had long been considered a worthy spot for this.³⁶ Particular spots recur in the sources, suggesting that there were standard choices and that these places numbered among them. Florentius in 361 and Hymetius in 371–72 were sent to the island of Boae on the Dalmatian coast, as was Jovinian.³⁷ Pontus (south of the Black Sea) was chosen for certain anonymous Antiochene clerics and monks, once for Paul of Constantinople, and the bishop Hilarius, a supporter of John Chrysostom.³⁸ Separately, Paul of Constantinople was sent to Cucusus in Armenia, where John Chrysostom was later sent.³⁹ When John was eventually moved from Cucusus, the imperial authorities sent him to Pityus, the same place that the general Abundantius had earlier experienced banishment.⁴⁰

It would appear, though, that southern Egypt was the ultimate place to send exiles. This location has arisen many times over the course of this study. As just observed, Lucifer of Cagliari was directed to Germanica and Eleutheropolis before being shipped off to the Thebaid, the southernmost Egyptian province. We also hear of individuals landing in the Great Oasis, a collective term for two of the five western Egyptian oases, Kharga and Dakhla, in the Thebaid.⁴¹ Recounting Timasius's tale, the historian Zosimus describes the area surrounding the Great Oasis as "sandy, deserted, and entirely uninhabited," and remarks that it contained no landmarks to guide those travelling through it.⁴² Sophronius, a Constantinopolitan deacon and pro-Johannite was banished there.⁴³ Theodoret claims that the deacon Evolcius was condemned to the Oasis as well.⁴⁴ Nestorius also endured an ill-starred sojourn at this location (which we will return to shortly).⁴⁵ As Zosimus's description makes plain, the travel route connecting the Oasis with the Nile Valley passed through the desert and would have made escape improbable.⁴⁶ Its remoteness created a natural prison. By partitioning the exile off from standard travel routes, banishment to the Oasis precluded an unauthorized return. It placed a prohibitive geographic feature between the exile and the main arteries of transport and communication.⁴⁷ Of course, most residents of the later Roman Empire stood no chance of winding up in southern Egypt. Probably only those who already lived in that province or who managed to offend the imperial court were liable to be condemned there.

In the same way, islands served as a standard place to send exiles. The decision to confine an exile to an island had a long history in Roman practice. Tertullian complained that Christians were banished in this way.⁴⁸ Several jurists mention *relegatio* or *deportatio ad insulam*.⁴⁹ From the beginning of the later Empire, *Pauli Sententiae* exhibits a particular proclivity for this phrase.⁵⁰ Constantine, too, has left many laws that stipulated island banishment.⁵¹ The early fourth century thus constitutes the high-water mark for banishment to islands in the legal sources. After Constantine, hardly any of the surviving legislation speaks of banishment involving islands.⁵² We also know of particular episodes involving island banishment.

For instance, Sulpicius Severus indicates that Instantius and Tiberianus, followers of Priscillian, were sent to the island of Sylina.⁵³ Ammianus recounts several episodes of banishment to islands in occasions that had to do with secular politics rather than religion. As we have seen, the Commission of Chalcedon, assembled by Julian to conduct an inquisition, sent the master of the offices, Florentius, to the Dalmatian island Boae and Palladius, the former holder of that office, to Britain.⁵⁴ Separately, the investigation into Hymetius's activities led to his assistant, Frontinus, being beaten and sent to Britain.⁵⁵ On balance, the evidence suggests that islands continued to serve as exilic destinations, perhaps even as much as they ever did. The lack of attention for this topic in the imperial law codes could simply indicate that emperors added little to the roll of offenses that warranted a specifically island-based sentence. Assuredly, the category "islands" covers a substantial range. At one extreme, there were islands such as Britain—large, populated, and certainly with some trappings of Roman culture. Minor islands had even less to offer. A smaller island would have been approachable only from specific points and sparsely inhabited, thus affording the authorities greater control over the person banished there. We can assume that magistrates with small islands at their disposal condemned criminals there and thus afflicted them with greater isolation still.

If these locations repeatedly served as exilic destinations, then populations of exiles could even develop there.⁵⁶ The affair involving Valentinus encapsulates many of the trends pervading banishment to islands.⁵⁷ Ammianus tells us that this individual was banished to Britain, where he became "impatient of rest" and organized the soldiers and other exiles for rebellion.⁵⁸ Evidently, Britain was home to such a considerable number of exiles that they along with the local soldiery could form a formidable force if organized. As such, it seems safe to conclude that certain destinations often received exiles and that these exiles might have developed into substantial groups. It is also telling that the life of an exile in Britain (even though this was undoubtedly the largest of islands) involved *quies*—rest or inactivity. There, exiles were expected to be withdrawn from public affairs. This spot could afflict the exile with political impotence as well as simple boredom.

Ordinarily, life in banishment was dull, but unlucky exiles might also suffer from too much excitement—this proved the case for exiles at the frontiers of the Empire. Eunomius, theological nemesis of the Cappadocian fathers, also experienced multiple banishments. At the hands of Theodosius I, he was sent to Halmyris on the Danube. When the Danube froze over, barbarians crossed over and captured the banished bishop.⁵⁹ The outline of this event, as it has come down to us in the fragments of Philostorgius's history, is minimal. John Chrysostom's letters provide harrowing descriptions of the havoc caused by the Isaurians (a tribe occupying a region in the Taurus mountains). Although when John arrived their attacks were rumored to be ceasing, they soon began again in earnest, once causing the city to be evacuated.⁶⁰ The general political situation in Cucusus would

have been familiar enough to the authorities in Constantinople. While they likely did not intend the Isaurians to be the bishop's undoing, an integral facet of this sentence was the exposure to a barbarian threat. Thus, the location of Cucusus created a stressful existence for its inhabitants because of the possibility of raids. The official plan was to put John at ease. It is unlikely, therefore, that this banishment ever intended to put him directly in grave danger. Rather, the goal seems to have been to locate him in the type of place that had to concern itself with self-defense. Unlike the supposed security of the major cities, to live so provincially was to assume a degree of uncertainty. It is significant that neither John nor Eunomius actually perished from the barbarian attacks. Their lives in banishment, however, could be and were disturbed by invasion and threat.⁶¹ For Nestorius, matters were even worse. The historian Evagrius describes his travails and presents excerpts from Nestorius himself. Nestorius had been condemned to the Oasis, where he encountered a series of misfortunes stemming from forces hostile to the Empire. At one point, the Blemmyes (a desert tribe) captured him and held him captive for a while before releasing him. The Mazici and the Nobades also destabilized the region, forcing Nestorius and others to evacuate.⁶²

In our period, one of the most aggressive strategies for handling exiles was to dangle them in front of possible dangers at the limits of the Empire.⁶³ It was as if authorities were harnessing the unstable frontiers that marked the fourth and fifth centuries. Their punishment imposed upon them a double vector. Centrifugally, it pushed exiles away from the centers of Empire, but centripetally, it held them within the Roman orbit.

IV CONNECTIONS AND SUPPORT

How well did exiles maintain contact with their former homes? How did they support themselves during their enforced departure? Links of communication were related to, but not the same as, the distance between the two parties. Expulsion to the nearby hinterlands might put an exile at a further remove than banishment to a major city on the other side of the Empire. Thus, banishment played on the inconsistency of communication, an unavoidable fact of late antique life. It is usually true that the distance imposed did not sever all ties, but it did fray them. A sentence of banishment ensured that its subject would have to work hard to remain in contact with his devotees, friends, or supporters.

Certain consequences ensue simply from the sentence itself. Deportation to an island, for instance, would have been a lonely and destitute experience; temporary relegation without the forfeiture of rank and property or even condemnation to a particular spot would have afforded the exile a more secure and less onerous lifestyle. Other incidents used ad hoc measures to produce isolation. Eusebius of Vercelli (while incarcerated at an inn) complained

bitterly about the treatment. The unpleasant aspects of his experience notwithstanding, he did receive letters from his home congregation as well as some form of a monetary donation.⁶⁴ The distance from his home in Italy and his destination in Palestine was considerable, so the behind-the-scenes efforts to transmit these things across the Mediterranean world should not be gainsaid. His correspondence reveals the frequency of connections and support, as well as how tenuous such streams might become.

Richer demonstration of the kinds of techniques and resources necessary for maintaining connection derives from Basil of Caesarea's correspondence with a different Eusebius, he of Samosata.⁶⁵ This Eusebius was one of Basil's theological allies and an exile for that cause under the emperor Valens. As Samosata was located on the upper Euphrates, and because the Balkan province Thrace was selected as Eusebius's destination, Basil's location stood between the lands Eusebius was banished from and to.⁶⁶ This arrangement proved to be significant. Once Eusebius had reached his destination, Basil of Caesarea took it upon himself to serve as an intermediary between the two zones.⁶⁷ These letters expose a crucial aspect in such a project: the availability and reliability of postal agents. In multiple places, Basil comments on the difficulties he experienced in finding a liaison to conduct letters from Cappadocia to Thrace. On one occasion, hopes of a letter exchange were frustrated when the agent whom Basil thought he would be able to use, the vicar of Thrace, disappointed expectation when a pressing need called him away from Caesarea at the exact time that Basil was away on business (one wonders whether the vicar made a politic departure in order to sidestep the messy business of church politics).⁶⁸ At a different time, Basil had sent multiple letters with a known entity, one Leontius, the peraequator of Nicaea, only to later discover that they never reached their destination.⁶⁹ Basil would observe to Eusebius that his letters had to pass through so many different hands that any single act of distraction or laziness could break the chain.⁷⁰ He simply assumed that the failure was due to incompetence rather than governmental inference. Such remarks shed light on the state of postal communications in Basil's world. In many cases, getting a letter through could only be achieved by a sequence of carriers, the letter reaching its destination like a hitchhiker prevailing upon a string of drivers. And, like hitchhikers, some letters never arrived.

More interesting still is the way that Basil circumvented that problem. Although no empire-wide postal service existed, there was one organization positioned across the provinces and capable of shuttling documents back and forth: the church.⁷¹ Visits and pilgrimages could provide a vehicle for the post to piggyback upon. Evidently, this thought had occurred to Eusebius, and he therefore had chided Basil for not employing the services of ecclesiastical underlings already. In his defense, he explains that the winter months make the roads impassable and that his clergy was accustomed more to "sedentary crafts" than to difficult journeys.⁷² Nevertheless, one soul was found who could perform the necessary postal service. Basil does not give any clues as

to his identity other than to call him “brother,” indicating only that he was a member of Basil’s church. However, Basil goes on to state that one of the readers in his church, a certain man, also named Eusebius, was at that time preparing to take the next batch of letters to the banished Eusebius. The advantage in using men like these was that they could be counted on to deliver the letter in the first place and then report back after this was done. By harnessing the services of such men, the church was able to fashion something of its own postal system, which had many advantages over the ad hoc methods in place. It was more reliable, involved fewer hands, and had a greater likelihood of receiving a return.

For non-ecclesiastics, the evidence is poor. Certainly, we can infer much from the particular elements of conceivable sentences. Matters must have been very different for those who retained their status and wealth. The wealthy who did not lose their fortune had a safety net. They would have to take moveable capital with them or trust that a family member, friend, or subordinate could both maintain their estate and transmit proceeds to the banished. Even though this category (the wealthy exile who retained his fortune in banishment) appears little in the historical evidence, logical inference suggests that it represented a substantial percentage of the exilic population. Any governor guided by the jurists would have tended to use banishment against the elite members of society; reciprocally, any governor sensitive to the pressures of social hierarchy would have had incentive to alleviate the imposition of banishment by making certain allowances.

Yet a respected social position was not an absolute assurance. Especially for prestigious individuals, whether or not they were bishops, banishment tested loyalties. Exiles at the top of the social scale could still be forced to depend of the kindness of others. For a would-be supporter, lending assistance to a condemned or disgraced personage was a calculated bet, and if the exile’s fortunes did not improve, this track record could come back to haunt the supporter. Galla Placidia, daughter of Theodosius I, was (probably) banished by her brother Honorius from the western portion of the Empire to the eastern.⁷³ The historian Olympiodorus comments that, “only [the count of Africa] Boniface continued loyal to her and from Africa, which he governed, sent whatever money he could and promised other kinds of assistance.”⁷⁴ Once again, a scrap of information suggests the ways that an exile received support, and the ways that she did not. Nearly every supporter declined to back Galla Placidia. For personal or political reasons, Boniface elected to do otherwise. This may have been a shrewd move, as Galla Placidia did eventually recover her status as Augusta. In any event, she was able to retain the loyalty of one provincial governor, and this translated into financial support. Thus, being a celebrity in one’s pre-exilic life was no guarantee of support.

Matters are murky when it comes to those who lost their social position or were lower-class to begin with. I do not see evidence to support the conclusion that the government sustained these exiles.⁷⁵ The lower class

and those impoverished by their punishment simply seem to be expected to work. For these, much likely hinged on individual circumstance. Bishops, in addition to being the recipients of long-distance charity, also helped organize it for the benefit of others. In the square-off between Ambrose of Milan and Symmachus the prefect of Rome over the altar of Victory, the former adduced a myriad of points to cast favor on his religion.⁷⁶ At one juncture, he stresses the social benefits stemming from Christianity and boasts to his imaginary interlocutor, “the property of the church is the support of the destitute. Let them [Symmachus and the pagans] reckon up how many captives the temples have redeemed, what food they have contributed for the poor, to which exiles they have provided the resources of a livelihood [*vivendi subsidia*].”⁷⁷ Ambrose claims that exiles number among the unfortunate, like captives and paupers, who benefit from the resources of the church. This claim alerts us to two matters. First, the plight of many exiles could have been pitiable enough to put them on a par with other luckless souls. Second, churches utilized their financial resources to improve the exiles’ lot. The details of Ambrose’s faith-based initiatives are not absolutely clear. The *vivendi subsidia* might be food and shelter, employment, or both. The crucial point is that Ambrose believed that this subject would win a point in his case. He must have felt it sufficiently common to be recognized both by his pagan opponents and by the young emperor whom he hoped to persuade. Leo the Great gives voice to similar sentiments in one of his sermons. Here Leo propounds the worthlessness of assets used selfishly; riches are of no use to the wealthy, he says, “if no paupers are aided by their goods, no sick people are supported; if, from the abundance of great means, no captive receives ransom, no stranger relief, nor exile help.”⁷⁸ This appears to be a stock list of functions for charity, and is all the more important on that account. Giving succor to exiles stands a standard function of early Christian aid.⁷⁹ The Roman church surely had greater resources at its disposal than did most other churches of the period, especially those in the west. Its relative wealth would enable more extensive charity projects. Nevertheless, the fact that Ambrose and Leo bring up exile assistance almost casually in their catalog of ecclesiastical activities creates the suspicion that it was commonplace, even in churches less prominent than these two.

Because contact with faraway friends was not reliable, subsistence from those at hand mattered keenly. Once more, it is only in matters significant to church history that we can appreciate that process at work.⁸⁰ Palladius indicates how Melania the elder intervened in the exilic life of certain Egyptian ascetics banished by the augustal prefect.⁸¹ Melania, a wealthy and aristocratic Roman, disguised herself as a slave and drew from her private assets in order to minister to the monks. Had she not been able to follow them surreptitiously to Palestine (the place of their banishment), her interest in supporting the monks likely would have come to naught. It was the combination of her resources, proximity, and ingenuity that allowed her to circumvent the augustal prefect’s intention.⁸² Little in this instance is

exclusive to the Christian leadership. Anyone could receive help from amicable locals or an admiring benefactor. All the same, Christian notables banished for religious reasons made likely candidates for such relief, and few other exiles had reason to expect similar treatment.

The array of evidence showing support given to exiles, while uneven, presents some trends. Rather than guaranteeing ruin, banishment exposed its subjects to the possibility of it. Support could be given, but often it was not forthcoming. A wealthy exile in a temporary sentence might succeed in self-support, but this was not often the case. Bishops present an intriguing factor in this equation. By virtue of their identification with an Empire-wide organization (the church), they had reason to be hopeful that sympathetic locals would sustain them. However, they were involved in the process of exile not only as its victims, but also as actors who altered the circumstances of those banished to their areas of provenance.

V HARDSHIPS

Banishment, as a topic, fascinates precisely because we assume that it represents a form of hardship. Certain instances no doubt were, but to frame the matter properly, we must bear in mind that Roman *exilium* developed as an alternative to punishment—that is, as a means to diminish the death penalty and in essence as a defense against hardship.⁸³ Some of these patterns in later Roman banishment contrast with their forerunners in the earlier period. Several episodes eliminate the hard division between banishment and the death penalty. Often, banishment served as a gateway to just that. Nonetheless, the examples of death by banishment seem to be quite rare. They served to give banishment a frightening aura, and while they increased its value as a scare tactic, they probably did not impinge upon the life of the average exile.

In this matter, the observer must be especially sensitive to the role of rhetoric. It is very difficult to take the sources' impressionistic descriptions at face value. The various forms of rhetoric tend to amplify or suppress exiles' suffering according to the needs of the author. Pieces of consolation make banishment sound trivial, while the language of martyrdom makes it seem wretched indeed. At points, basic information pokes through and offers a sort of catalog of banishment's infelicities, regardless of how much weight we attach to any particular part of it.

This chapter has already lit upon certain dimensions of banishment constitutive of hardship—isolation, tedium, destitution, capture by barbarians. These all certainly could entail hardship and were more or less part of the normal course of affairs for an exile. These irritants, at least, were natural corollaries of the sentence itself; others could arise either by happenstance or design.

At the destination, there was ample opportunity for disjunction between the letter of the law and its implementation. One of the chief causes was

local officials taking their own view of the sentence. In the worst case, the schism between imperial intention and bureaucratic execution proved deadly. The historian Zosimus narrates a case of intrigue in the reign of Honorius that culminated in banishment and death. At the urging of the praetorian prefect of Italy, Jovius, and master of the horse, Allobichus, the soldiers mutinied in the capital city Ravenna.⁸⁴ Ironically, the emperor sent Jovius, the very man who had instigated the uprising, to deal with the soldiers. Pretending not to know the cause, Jovius asked the army what prompted its action. When the soldiers then called for their leaders Turpilio and Vigilantius plus two others to appear before them, the emperor sentenced these men to banishment and inadvertently gave Jovius an opportunity to tie up loose ends. While the men framed for the insurrection were aboard a ship on their way, Jovius arranged for their murder to ensure that they could not later relate their side of the story.⁸⁵ Banishment was not the cause of their death, nor does there seem to have been any official intent to use it as a gateway to murder. However, the inconspicuousness provided by the transportation afforded Turpilio and Vigilantius's potential enemy with a chance to inflict further suffering upon them.

The highest order of exilic hardship is that of abuses fully intended and orchestrated by the authorities, for which exile provided the occasion to execute them. These hardships might be called “bonus punishments”—penalties which were not publicly mandated but were actualized at the behest of the authorities. Since the days of the early Empire, banishment occasionally had been an opportunity to do away with someone whose execution would have been unwise to accomplish in public. Tacitus tells us that Cornelius Laco, who had been praetorian prefect and Galba's power behind the throne (68–69), was banished to an island but then murdered.⁸⁶ It is noteworthy that at that same time Martianus Icelus, being just a freedman, was publicly executed. Laco's status supposedly gave him immunity from this treatment, thus necessitating the use of banishment as a ruse. Removing him from the public view gave his adversary Otho the means to bring about his execution.

Banishment in the later Empire continued to provide this service on occasion. Certain aspects lent themselves to accomplishing murder. Once the exile was hidden from public attention, deeds which might otherwise provoke public outrage could be accomplished. Noting this, authorities occasionally pronounced a sentence of banishment with the intention of delivering a harsher penalty, namely death, once banishment had been enacted. Paulinus, the suspected lover of the empress Eudocia, was sent to Cappadocia and later killed at Caesarea.⁸⁷ Flavius Basiliscus, at the very end of the period under study, also met his fate in banishment. He had usurped the throne from Zeno and was surprised when the latter returned to Constantinople, which received him back. Basiliscus fled to the Great Church for sanctuary, compelling Zeno to promise mercy for the usurper and his family. However, they were banished to Limnae in Cappadocia, where they were sealed into a fortress tower and

allowed to starve.⁸⁸ In fact, the possibility for misunderstanding was so great that banishment probably provided authorities with an opportunity for what is now called “plausible deniability.” By their very nature, plausibly deniable moments resist substantiation. Analysis must therefore use suspicion without descending into conspiracy theory. At a minimum, banishment’s simple physics ensured that if authorities wished to eliminate a popular or formidable person, but circumstances demanded discretion, it could provide the necessary cover. It was always possible that private directions to enforcers differed from the public sentence, leading to suspicious results. For example, Ammianus tells of a father and son, both named Apollinaris, who were subjected to exile under the treason trials conducted by the master of the horse, Ursicinus.⁸⁹ When they reached their villa outside of Antioch (which seems to be either their destination or a stop en route), the father and son were attacked and killed, despite the fact that their sentence should have spared them.⁹⁰ This presents a difficult case to read conclusively. It looks like their tragic end was not part of the sentence, but one never knew. It could have been the intention behind their being sent to the villa. Naturally, most exiles were not murdered in their country homes, but it must have been a worrisome possibility.

On one hand, cases of this variety appear to be very rare. On the other hand, unnerving tales about the fate of hapless exiles certainly existed. Stories surrounded victims like the Apollinares, such that Ammianus knew of two conflicting accounts of their demise. It is possible, then, that the existing records and sources did not know what actually happened, leading the historian to rely on contradictory rumors. But this is precisely the point. Urbanites back home were not aware of what transpired for the exiles in the hinterlands; they merely received distressing tales of assault and neglect. Thus, being sent to a remote destination carried with it the prospect of becoming an anonymous causality. Even if this outcome was unlikely, the element of uncertainty was ever present. An exile could not be confident of avoiding intentional maltreatment (though being politically unimportant would have naturally increased one’s chances), nor could he be assured that a factual account of his affairs would reach his supporters if calamities did occur. These points go beyond simple corollaries to the legal sentence. Being deprived of rank would certainly have exposed a person to abuse, but even when rank was not stripped, being dislocated meant that one was taken away from the trappings and social constructs that normally reinforced the privileges of status. Even if no such thing occurred, it could have—and this was no doubt a source of stress to those who knew that they were potential victims in circumstances under which they were deprived of their normal safety and power.

7 Return of the Exile

The act of return and the steps that led to it could form an integral aspect of the banishment process. At the same time, sources do little to describe the scenes from quotidian homecomings.¹ This silence itself has a certain value; it suggests that in typical circumstances homecoming would tend to be an inconspicuous, private event, unaccompanied by troops or fanfare. Even the authorities capable of recalling an exile receive short shrift. Often, sources describe such occasions in the passive voice with the result that we know that a certain person “was recalled” but not who recalled them or why. As an example of the frustrations that the sources can cause, Ammianus’s rendition of the brothers Flavius Eusebius and Hypatius exhibits the concerns and indifference common in the era. He relates that these two, both consuls under Valens, were accused of treason, tortured, and banished.² Ammianus stresses the tyranny of the emperor and the injustice of the trial. However, he notes nearly as an afterthought that, “shortly after, their fines were given back, and they were recalled [*sunt revocati*] with their ranks and splendor unhurt.”³ Given everything else that Ammianus states, this is an astonishing outcome. Nevertheless, Ammianus had little interest in the driving force behind this sweeping change of fortune.

Some features of this process are self-evident. For one, emperors could pardon the banished. The emperor served an appellate function and, perhaps more to the point, his word had the force of law. He could therefore annul a sentence of banishment either because he ruled that it was a miscarriage of justice or by regal fiat. Praetorian prefects also received appeals from lower courts, and at times must have pardoned those unjustly banished. Lower magistrates, such as the provincial governors or urban prefects, surely had the right to rescind their own verdicts if new evidence came to light. In the second century, at least, Pliny and Trajan assume as much about the governor; there is no reason for this part of the governor’s purview to have changed.⁴ Such offices, however, had consistent turnover, and a new governor (for instance) might not have wished to involve himself in cases which his predecessor had settled already, fairly or not. What does emerge is that the procedure of banishment had key moments, features, and outcomes.

In particular, the terminal stage of banishment harbored as its main components the varieties of pardon, the political symbolism of mercy, the effort by exiles to obtain it, and the social pathways that assisted them in this endeavor.

I RECALL AND RESTORATION

As we saw earlier, the second-century governor Pliny encountered a certain individual who had been relegated by a proconsul who himself had later been indicted. Stuck in this legal limbo, the condemned man simply remained in place and kept a low profile.⁵ We can infer that in later centuries, some individuals similarly fell through the cracks. Naturally, imperial legislation says little about those who thwarted the law by returning illegally or who refused to leave in the first place. However, rare materials do betray their existence. When the court of the emperor Honorius issued a general pardon for exiles, it announced that, “We liberate by this, our pardon [*indulgentia*], everyone guilty of all crimes who have been driven out either by *deportatio* or by *relegatio*, or allotted to the mines . . . excepting them who were unwilling to go to the place determined for the punishment, contrary to the sentences of the judges.”⁶ The law’s phrasing is ambiguous on a key point. Those who were “unwilling to go to the place determined for the punishment” could have done a variety of things, including leaving home but then going to a destination other than the one specified. Most likely, though, an exile who resisted the terms of his sentence would have remained in place. Even without comments such as these, it would still seem likely, *prima facie*, that a few individuals snuck back home. When local authorities proved lazy or incompetent, or even when a new provincial governor replaced the one who had issued the initial sentence, an opportunistic exile or two must have evaded the system.

Other than stealing home, the way that exiles made their return was when a magistrate elected to rescind the punishment. Much of the relevant evidence consists of legal sources, specifically on the subject of *deportatio*. *Deportatio*, of course, was life-long by definition. In situations when authorities countermanded that sentence, their action negated the initial terms of the punishment and therefore introduced questions over the rights and privileges of the former *deportatus*. *Relegatio*, however, could contain a specific time limit; when that moment arrived, the sentence naturally came to an end. Legal sources would have no reason to comment further. Similarly, a *relegatus* who retained his rights and property would not necessitate legal debate if he were permitted to return early. For this reason, it seems, the situation of pardoned *relegati* remains essentially invisible in the evidence. It is important to remember that other examples of *relegatio* could have been permanent and called for civil disabilities. Those who fell under that category do not receive direct treatment from the legal materials, but

the principles that guide decisions over *deportatio* offer a basis for understanding how these cases could have been handled.

There appear to be two different concepts afoot—largely categorizable as “restoration” and “recall,” though the sources’ terminology shows some variety. First, authorities could allow exiles to make their way home (that is, they could “recall” those in banishment), regardless of their guilt or innocence. These moments did not entirely erase the exiles’ guilt, and therefore did not return lost elements such as rank. Second, in addition to permitting the exile to come home, pardon could return rank or property removed by the original sentence. This set of conditions comprised full “restoration.” Naturally, restoration would have suited occasions when authorities ruled that a person had been deported unfairly. However, for reasons of their own, authorities could also offer restoration to those properly sentenced, so a restoration was not necessarily an appellate reversal of a lower magistrate’s decision.

We know from Justinian’s Digest that the jurist Papinian tackled the matter in the late second or early third century and issued a statement that envisions the subtle permutations possible when it came to a *deportatus*’s return.⁷ In fact, Papinian conceptualizes two finely differentiated scenarios, both of which relate to the legal liabilities persons could face were their deportations lifted. In the first, after the punishment had been *remissa* (“remitted” or “relaxed”), the imperial treasury still retained his wealth. This judgment would be all but unfathomable if the *deportatus* was determined to have been innocent all along; it makes sense only as a condition which ensued from a person properly condemned but later pardoned by imperial generosity. Under these conditions, the pardoned *deportatus* would not be vulnerable to actions against him by his former creditors. Shifting to an alternate scenario, Papinian states, “but if he should recover [*reciperaverit*] his goods with the granted reinstatement of rank,” then his creditors may bring direct action against him. Although these determinations would be logical outcomes in an appellate reversal, Papinian seems to present them as more specific versions of the first scenario. In other words, the entirety of the jurist’s opinion conceives of pardons that range from ones that entail mere physical homecoming to those that enable homecoming as well as offer additional boons. In neither case does he indicate that a set of benefits automatically accompanied a particular form of pardon.

The compilers of the digest filed this opinion along with others from jurists—Ulpian and Paulus—who offered commentaries on Papinian.⁸ Paulus’s remarks need not detain us here, as they concern a woman recalled from the mines, whereas Ulpian’s notions relate directly to the subject at hand. Ulpian, in works originally separate, speaks of the different conditions that apply to a *deportatus* who has been reinstated (*restituatur*). In his *Edict*, he indicates that such a one may inherit from his freedman.⁹ His work *Opinions* considers further possibilities; namely, in situations when the emperor elected to reinstate the *deportatus*’s *dignitas*, this event would

not require that the former exile regain his wealth. Moreover, if the emperor decided to return both rank and wealth, then the latter could not decline the favor in order to shield himself from potential suits.¹⁰ In short, Ulpian does not bundle the effects of reprieve, but prefers to see them in isolation. The contrast here with Papinian is minor. Both jurists understand the basic action to be physical recall but also leave room for additional benefits; neither jurist makes those benefits automatic for certain pardon types.

The emperors of the second and third centuries appear to have worked within this general framework. There is a tendency in their rulings to associate general amnesties with “recall,” the more minimal form of pardon. Emperors Alexander, Gordian, Philip, and Diocletian and Maximian adhere to the policy that a general pardon affects only physical location, not rank and wealth.¹¹ That is, they understand that a judgment which negated deportation could well have brought about a reinstatement of all the things which the condemnation took away, but that mass amnesties did not automatically function in this way.

The emperor Constantine, however, adopted a different view. In a ruling on the testament of a father, once deported but then reinstated, this emperor took issue with the perceived ambiguities in the jurists. Attempting to simplify matters, Constantine stipulated that the opinion of Papinian was to remain in force while the commentaries of Ulpian and Paulus were to be removed.¹² The law goes on to state that, “just as the very name of *deportatio* itself is the deprivation of all things, so then shall an *indulgentia* of return be the restoration of goods and ranks, in a word of everything lost.”¹³ The net result of this modification is that it rejects the tiered system employed by the jurists in favor of a streamlined, uniform system in which pardon from *deportatio* can only mean one thing—full restoration. Constantine’s prioritization of the jurists introduces significant questions of how fourth-century emperors or fifth-century scribes reworked the legal heritage.¹⁴ The pertinent point here is that Constantine clearly hoped to make the law more manageable but did so at the expense of legal subtlety. If Constantine had in mind the jurists’ views as preserved in the Digest, then he seems to have misconstrued them. First, and most fundamentally, Papinian (in the passage preserved in the Digest) did not assume that recall automatically brought about full restoration; he specified that it *could* restore rank and wealth. Second, Ulpian did not disagree with Papinian so much as tease out some of the implications of his predecessor’s schema. Thus, removing his and Paulus’s verdicts in fact did very little to simplify matters. Whatever else Constantine’s law may have done, it sacrificed something of the jurists’ legal shrewdness. Ulpian, for instance, had the perspicacity to realize that some pardoned *deportati* might not want to receive their wealth back, as its return would also revive their liability to suits and financial claims. The language and legal reasoning of Constantine’s law, even in its redacted form, exhibit a blithe naiveté. Contending that a reinstated father must reclaim his right of *patria potestas*, it offers as rationale that,

“if [*patria potestas*] is not bestowed on good fathers, the return will be sadder than was the departure.”¹⁵ Although Constantine’s fame extends from his being the first Christian emperor, there is nothing in this law that suggests Christian ideology or church influence.¹⁶ In fact, the law itself indicates that the jurist Papinian was its inspiration and its deepest motivation seems to be the urge to clarify.

As historical evidence for the state of banishment and its conclusion, Constantine’s law suggests much more. Chiefly, it indicates that in the early fourth century, massive confusion surrounded the topic. Constantine’s ruling reads precisely as if it were a response to a particular case sent to him by the law’s addressee, Maximus, the urban prefect. Evidently neither the lead magistrate in the city of Rome nor his staff knew how to navigate the topic. Further, Constantine’s reason for preferring Papinian to the other jurists was not that the latter were wrong, but rather that in combination their views were confusing.¹⁷ Of course, Constantine’s declaration had some impact on the law of the later Empire; yet it is virtually unfathomable that the one judgment directed to the prefect of Rome eliminated uncertainty in all other parts of the Empire. Not only does the law betray a prior history of confusion, Constantine’s ruling almost certainly points to its ongoing existence.

Ultimately, Constantine’s pronouncement displays confidence in the power of deportation to chastise and pardon to repair. A person put through the banishment system, it feels, ought to return with his dignity fully restored and his moral compass accurately reoriented. And here is where the law departs most importantly from convention. By eliminating the space separating mere recall and full restoration, it presumes that anyone who makes a return from deportation has undergone a form of rehabilitation.¹⁸ As such, the more minimal form of pardon would have been insufficient in the face of the *deportatus*’s improvement.

There is evidence to suggest that Constantine followed those principles in his subsequent reign. The horoscope of Firmicus Maternus indicates that, after being exiled, the native received a sudden pardon, followed by a series of appointments to important offices, starting with a post within the administration of Campania, followed by promotions to the consulship of Achaëa, the proconsulship of Africa, and finally the prefecture of Rome.¹⁹ These moments all took place under Constantine.²⁰ It is true that pardon itself did not grant the high offices that the native later occupied, but the fact that his post-exilic life included such illustrious achievements testifies to the full extent of his restoration.

The evidence does not reveal whether or to what extent Constantine’s innovation became normative in the handling of *deportati*. Nor does it say anything about the affairs of *relegati*. Given that the comments of Papinian, Ulpian, Paulus, and Constantine all survived until the time of Justinian, it would seem that Constantine’s ruling did not create a clean break in legal practice. However, what is distinctive and innovative was Constantine’s

confidence in banishment's abilities to improve the punished—and pardon's ability to negate entirely the disabilities brought on by that sentence. These convictions would have important consequences for the ways that authorities handled restoration in the coming generations.

II INDULGENTIA

The decision to release someone from banishment sat within a political context of *indulgentia* (“pardon,” “kindness”).²¹ Acts of *indulgentia* performed a crucial role in late Roman culture; they emblemized the merciful component of Roman justice by wiping away a punitive sentence, regardless of the culprit's level of guilt.²² Recalls issued for exiles represented one component of these demonstrations of a ruler's clemency. Thus, issuing such forgiveness was a public gesture. Restoration, of course, altered the lives of those reprieved, but it also made a statement about the one issuing the pardon that constituted a political favor, akin to the right to tap an aqueduct, the use of the *cursus publicus*, or the promotion to an office.²³

To dispense such *beneficia*, or “favors,” in the Roman world was to participate in a system that created vertical bonds in society by bestowing gifts in exchange for gratitude. Granting favors created a debt which could be repaid in the form of loyalty and devotion.²⁴ Offering a reprieve from banishment counted as one illustration of this obligation-creating benefaction. Recalling exiles constituted the sort of gift that designated the giver as magnanimous, obliged the recipients to show appreciation, and represented a quality that Roman subjects lauded in their rulers. These potential rewards for the one extending pardon had a long history in Roman politics.²⁵ Banishment amnesty, and *indulgentia* more broadly, served as an illustration of imperial might as well as the intent to wield power mercifully. These events used the person of the exile as the mechanism and site of imperial propaganda. Thus pardoned criminals, exiles among them, helped to give these clemency-generating moments their aura of importance. The restored exile could act as a walking advertisement for the ruler's generosity. Sulla, the Roman general and dictator of the late Republic, once ornamented himself with recalled exiles when celebrating a triumph. Plutarch noted that despite the lavishness of the spoils displayed in this process, the greater glory was the spectacle of the restored exiles.²⁶ No amount of plunder could equal the dazzle caused by a host of banished men recalled to Rome. Through the course of Rome's history, the banished remained a potential prize to one who could grant them a reprieve.

General pardons of exiles often occurred in grand gestures.²⁷ That is, emperors released exiles from their punishment as a part of a larger package of clemency, which might include other elements such as freeing individuals from prison or the mines, as a way to commemorate significant moments and to demonstrate imperial benevolence. A major holiday, such

as an emperor's *vicennalia* (twenty-year anniversary of rule), formed the basis for blanket pardons of criminals. During his persecution of the Christians, the emperor Diocletian granted this clemency to all those languishing behind bars, with the exception of a strident Christian resistor.²⁸ Pardons were also routinely issued upon regime change. When a new emperor ascended to the purple, particularly when he wished to distinguish himself from the reign of his predecessor, he might nullify the judgments against those serving various sentences, including banishment.²⁹

In the course of the later Roman Empire, the Christian calendar came to exercise an influence over the schedule of indulgence dispensation. By the 360s, Easter prompted Christian emperors to issue statements of pardon. At the end of Lent, emperors customarily issued an absolution for those suffering various punishments. A western law of the mid-fourth century indicated that, "because of Easter, which we [the emperors Valentinian, Valens, and Gratian] celebrate in our innermost heart," almost all prisoners were released.³⁰ Nearly half of the Theodosian Code's constitutions on *indulgentia* were issued in coordination with Lent.³¹ In this way, the lives of the banished registered the influence of the Christian calendar: its cycle of sacred time had come to relieve the debtor, free the prisoner, and restore the banished.³²

In addition to these regular episodes, imperial fiat could produce moments of *indulgentia*. The emperor Constantine's mother, the Augusta Helena, also involved herself in the grand affairs of patronage. At the end of her life, she made a pilgrimage to the Holy Land.³³ Along the way, she bestowed favors on the cities through which she traveled. Eusebius, Constantine's biographer, indicates that among her blessings numbered the gift of freedom to those in prison, the mines, and banishment.³⁴ Helena's pilgrimage created a trail of beneficence. Hers was an indiscriminate effusion of *indulgentia*. Those exiles who received Helena's pardon almost certainly had no affiliation with the pilgrimaging empress other than the good fortune to be somewhere in her wake. Whatever wrongs these offenders may have committed, and whatever their original punishment, Helena's sweeping gesture countermanded their condemnation and thereby returned them to their homes. It is instructive that Eusebius emphasizes these gifts' redounding to the credit of the giver. In his words, Helena literally "shone brilliantly" (λαμπρυνομένη) by virtue of these deeds.³⁵ In sum, her actions had two important consequences. They interjected a powerful current of clemency into the justice system and served as propaganda for the person issuing them.

These sentiments were not confined to Christian circles, but were rather part of the communal culture of late antiquity. Constantine's step-nephew Julian also expected the pardoner to garner significant glory. Using the royal "we" and reading the subtext rather overtly, his letter bid the banished doctor Zeno, "return therefore in possession of your rights and holding your earlier honor; and let the favor be reserved for us by both [you

and Alexandria] together, as it restores Zeno to the Alexandrians and Alexandria to you.”³⁶ Julian plainly anticipated that the city of Alexandria and Zeno would appreciate his gesture. Moreover, he states explicitly that the newly formed sense of gratitude ought to translate into credit for the emperor who made the reunion possible. However unsubtle Julian’s explanation, it has the virtue of clearly articulating the exchange of restoration for exaltation.

So impressive was the act of pardon, late antique sources occasionally found themselves troubled by a “bad” emperor’s use of such patently “good” behavior. Over time, the credit for a major pardon could even shift from one emperor to another: in the middle of the fourth century, certain Nicene Christians were recalled from banishment either by the eastern emperor Valens (ruled 364–378), who opposed their theological position, or by the western emperor Gratian (ruled 375–383), who did not.³⁷ The earliest sources, Jerome and Rufinus, credit Valens with the recall. Later histories, which took a dim view of Valens, transferred the deed to the rule of his colleague.³⁸ By the fifth-century, propaganda targeting Valens’s theology had revised events in order to connect Valens’s oppression of Nicene churches with the military fiasco that ended his reign.³⁹ Exhibiting mildness, even favor, toward orthodox churchmen sat uneasily with that track record. As such, the grandeur of recall had to be reassigned to a safely orthodox candidate.

At least in its intentions, mass pardons sought to enhance rather than corrupt the justice system. In fact, there is a quasi-appellate function here. Their object was to maintain the empire-wide equilibrium of punishment and pardon. If lower magistrates rigorously applied the law, then their superiors could mitigate those decisions with sporadic exhibitions of clemency. In practice, these episodes could not help but create certain difficulties. To begin with, they led to the possibility for rapid and unmerited reprieves. There is no simple means to test how commonly pardons occurred, so uneven is the evidence. An anecdotal scrap occurs in the writings of Augustine. In his work *Answer to Faustus, a Manichaeon*, the bishop dismisses various claims put forward by the Manichaeon. Granting that a proconsul did banish Faustus and some of his fellows to an island, Augustine maintains that the imperial authorities frequently released the condemned by their *indulgentia* and that, in this case, the band of Manichaeans were soon dismissed.⁴⁰ Augustine’s remark serves to minimize Faustus’s sufferings; his comments would therefore gain rhetorical force by overstating the rapidity of Faustus’s reprieve. Nevertheless, his rejoinder rests on a social phenomenon that he regards as common knowledge—the fact that magistrates often release exiles from their punishment early.

The surviving laws themselves give the impression that the system of pardon was threatening to burst out of control by the beginning of the fifth century. For example, the Eastertide law of Honorius negating all banishment sentences had been preceded only a few years earlier by several proclamations,

issued in the name of this very same emperor, which mandated forms of banishment for a variety of offenses.⁴¹ If anyone had been sentenced under these decrees (or the many other banishment laws from previous emperors), they would find themselves pardoned, regardless of the terms of their initial sentence. The fact that an imperial court would nullify its previous sentences of banishment in a single stroke demonstrates that banishment, even if it initially appeared permanent, was not always a life-long affair. It also raises serious questions about the effectiveness of those earlier mandates.

Certain laws from the first quarter of the fifth century sound very much as if reprieves were taking place too often for the imperial courts' tastes. Honorius's court issued a pronouncement forbidding women from divorcing and remarrying. Its punishments (deportation and the loss of her dowry) were not remarkable in themselves; however, the law goes on to deny such a woman "not only the union with a second husband but even the right of *postliminium*."⁴² *Postliminium* referred ordinarily to a captive's right to reclaim his or her property after being held by an enemy.⁴³ In this case, there is no notion of the woman being held ransom. It makes far more sense to understand the problematic return here as the one from deportation. The law seems to establish contingencies for when its initial terms were reversed. On the eastern side of the empire, Theodosius II issued legislation that also presumed the likelihood that the banished would not stay that way forever. That court's law punishing Nile diverters (discussed earlier) stipulated that accomplices were to be sent to the Oasis with no possibility of recovering their citizenship, property, or *dignitas*.⁴⁴ Again, what is striking is not that the law would deprive offenders of these things in the first place, but that it would insist that the offenders were barred from ever regaining them. The law's drafters virtually assume that Nile diverters would rejoin society at some point (regaining one's *dignitas* in the midst of the Egyptian desert profited very little), and even concede a sort of powerlessness to prevent that fact. Instead, it seeks to maintain their civic disabilities once the deported returned home.

Because of the many laws that have not survived, it is impossible to know how other imperial regimes anticipated the probability of pardon. At a minimum, we can say that an increase in pardon would have been a plausible development for the early fifth century—not because it was an era that grew increasingly tolerant, but because it was one during which imperial courts, particularly western ones, grew increasingly feeble. It is quite possible that these courts had to choose between seeing their laws ignored or voluntarily pardoning the condemned.

III PLEADING THE CASE

Scraps of meager evidence, along with common sense, indicate that some exiles used practical and uninspiring means to get their sentences lifted. Sulpicius Severus intimates that Priscillian and Instantius managed their

pardon by bribing one Macedonius, the master of offices.⁴⁵ No doubt others turned to these or similar tactics, all in any event amounting to an “end around” the justice system. The system itself, however, was rigged in order to respond to placation by other means. The following examples may not match modern notions of perfect justice, but neither do they constitute corruption as judged by the standards of their day. Rather, the Roman system recognized that the proper mix of humility and flattery could stimulate acts of clemency in return. Unlike bribery, this procedure worked to preserve the greater balance of justice and mercy.

Banishment resulted from many forms of misstep. In order to show that banishment was no longer necessary, an exile was well advised to alleviate the factor that initially led to this punishment. Especially if one had been condemned for a lapse of loyalty or faith, the essential project was to convince an authority, almost always the emperor, of newfound contrition and compliance. Writings were the natural medium for exiles to express those sentiments. In their physical absence, these documents would have to speak for them.⁴⁶ They could express what an exile wished or felt constrained to say and could go into the places forbidden to the banished.

In any writing to this effect, an exile had to walk a narrow line of persuasion. However unjust the punishment may have felt to the one suffering it, maintaining one’s innocence too stridently carried the dangerous implication that the original sentence was unjust.⁴⁷ Thus a proclamation of one’s own blamelessness implicitly condemned the decision to banish—and the person who made this decision.⁴⁸ The situation called for subtler protestations. A person banished for disloyalty, for instance, would want to prove his allegiance as a first step towards obtaining his release. The career of Publilius Optatianus Porfyrius (known also as Optatian Porfyrus), while shadowy in the extreme, suggests such a progression. The poet directed several laudatory works to Constantine while in banishment. Porfyrius made use of extraordinary techniques in his efforts to please the Augustus: he celebrated Constantine’s military triumphs, appealed to both Apollo and Christ (including a chi-rho design embedded in one poem), and managed to package these sentiments in an extremely sophisticated format.⁴⁹ This complex blend of techniques evidently found a successful harmony, as Constantine did relent and recall the poet. In his *Chronicle*, Jerome noted, “Porfyrius, having sent an extraordinary volume to Constantine, is freed from *exilium*.”⁵⁰ It is significant that Porfyrius both flattered Constantine and adopted ambiguous imagery suitable for that emperor.⁵¹ In both medium and content, Porfyrius sounded the right notes for someone hoping to placate a hostile sovereign.

Sectarian banishment developed this objective. It is here that we see the most strenuous efforts to supplicate on the part of the banished and the intention to reform on the part of the authorities. A curious paradox obtained in these situations. For bishops, the “rank” that mattered was the leadership over their see. Emperors, though, could not restore this to

them on their own authority.⁵² Thus banishment was especially apposite when it came to securing retractions from sectarians, but bishops who issued a retraction needed the approval not just of the banishing authority but of their ecclesiastical peers. This meant that a bishop banished for religious reasons would have to finesse several aspects in his pursuit of pardon. The main elements to be negotiated were the amenability of his position to the favored one, his willingness to accept a less controversial stance, and a retraction of previous views. Eusebius of Nicomedia and Theognis of Nicaea, condemned for their support of Arius in the 320s, effectively took this course when they pleaded for a release from banishment. In a letter whose recipients are not preserved, they allege that they had never held views akin to those of the condemned presbyter; they insisted that their previous refusal to condemn Arius was based not on their support for him, but rather on their belief that certain anathemas directed at Arius were inaccurate.⁵³ Assuring the recipients that they would concur with any conclusion reached by a proper council, Eusebius and Theognis aver that, though their position was more orthodox than it first appeared, they submit to the judgment of those who differed from them.

Conversely, when regimes changed, emperors could bring political or theological commitments with them to the throne. Those new circumstances afforded opportunities for those in banishment. We see some of the ways that exiles could exploit those conditions in a surviving supplication referred to most commonly as the *Libellus Precum*.⁵⁴ In the later fourth century, the priests Faustinus and Marcellinus wrote this plea to the emperors, petitioning them for an end to the authors' banishment. This lengthy tract rehearses the details of the "Luciferian Schism"—the affairs involving a party of ultra-Nicene Christians (including Faustinus and Marcellinus) who followed the bishop Lucifer of Cagliari in rejecting those who had ever supported Arianism, even if they had since repented. As part of this larger struggle, Faustinus and Marcellinus had supported Ursinus in his bid for the Roman see and therefore received a sentence of banishment to Eleutheropolis in Palestine.⁵⁵ Their petition gives reasons why its authors and their comrades did not deserve the treatment which they received. At times brazen, it makes a vigorous case for the authors' orthodoxy and the emperors' interest in supporting their cause.⁵⁶ At several moments, it turns to many figures from the Old Testament to serve as *exempla*. For instance, comparing the treatment of orthodox bishops and ownership of churches to life under Ahab, they ask the "the most pious emperors" whether they will wish the priests in their era to say, in tandem with the prophet Elijah, "Lord, they have killed your prophets; they have destroyed your altars"?⁵⁷ The question barely disguises its implication that banished bishops recapitulate murdered prophets—the treatment of both weighs heavily on the soul of a sovereign. Although the authors maintain their innocence almost pugnaciously, the petition

achieved the desired effect. Theodosius sent instructions to the praetorian prefect of the East indicating that the orthodox should not suffer any further harassment.⁵⁸ The crux of the matter is that Theodosius was the best-case scenario for Faustinus and Marcellinus. He had strong views on the subject of orthodoxy and may even have composed the response himself.⁵⁹ The success which their petition found with him surely derived from the emperor's temperament. Not all exiles were lucky enough to strike while the imperial iron was hot.

Often, circumstances called for more than just contrition or cajoling. Difficult conditions or simple distance could require an advocate to advance the exile's cause. The principal task of an advocate was to represent the banished by conveying their sentiments. Exiles no doubt hoped that the liaison would do more than transmit a message, though. Ideally, an intermediary—perhaps a senator, family member of the emperor, or imperial advisor—would attempt to use whatever powers of persuasion possible to promote the exile's cause. A persistent envoy possessed unmistakable advantages over an inanimate text pleading for restoration. Where the latter might easily be ignored, deferred, or rejected, a live advocate could affect change by coaxing or imploring the relevant authority. The crucial quality of a go-between consisted in the connections held both with the person needing assistance and with the patron. These intercessors were nearly as important as the one who ultimately granted the favor.⁶⁰

Acting on another's behalf was, in fact, a convention of Roman patronage.⁶¹ The later Empire was a time when patronage took on heightened importance, but also a period during which its participants and techniques displayed a new and sometimes ambiguous sense of variety. Several shifts in society imposed new pressures on this system. For one, the identity of those doing the brokerage work went through a noteworthy transformation. Instead of senators and the emperor's friends, Christian luminaries—such as the holy man, the dead saint, and the Christian bishop—all served in their communities as types of patrons.⁶² As ever, having friends in high places could prove decisive.⁶³ At the same time, patronage also adapted in its aims and arrangements; the growth of a large, complex, and centralized bureaucracy meant that obtaining results was often the product of manipulating this system, usually through monetary expenditure.⁶⁴ These new conditions produced uncertainty over which patron to turn to and competition among patrons to represent potential clients.⁶⁵ This range of potential emissaries meant that different sorts of people could serve as intermediaries for exiles.

A particularly crucial set of potential brokers was those officials who were close to the person of the emperor. Eunapius indicates that the sophist Prohaeresius endured banishment until a new proconsul discovered the situation with displeasure; even still, Prohaeresius only returned by virtue of imperial goodwill (βασιλέως ἐπιτρέψαντος).⁶⁶ Evidently both proconsular interest and imperial imprimatur were involved. Ammianus recognized the

handiwork of well-positioned individuals and those who used their proximity to benefit the banished. Arbitio the consul, for one, extended help to a pair of incompetent guards. On their watch, the tribune Marinus killed himself; for this gaffe, they were sentenced to *exilium*. However, Arbitio interceded with the emperor Constantius and elicited their pardon.⁶⁷ On a separate occasion, when Vulcacius Rufinus became praetorian prefect, he supplicated the emperor Valentinian for the recall of a certain Orfitus.⁶⁸ In this case, the condemned had been enduring *exilium* for embezzlement. It is likely that other exiles owed their freedom to similar enterprises, but when those missions took place subtly, behind closed doors or without a clear cause, outside observers such as Ammianus were unlikely to realize what factors led to this outcome. The very backroom nature of the imperial supplication itself made it invisible to those not involved in it.⁶⁹

Not all emissaries were official magistrates, however. Since the days of the Republic, women had performed important services on behalf of exiles.⁷⁰ Their gender role probably aided this act of intervention. Ancient society assumed that women were pliable, more susceptible to external influence, than were their male counterparts.⁷¹ In conjunction, this social vision ascribed to women greater sensitivity to the affects of emotion.⁷² Thus women would have been natural candidates for the banished to approach: they could yield to such requests without betraying their gender. This was a crucial bridgehead into the *indulgentia* system. After all, in situations in which standards of male comportment would have prevented capitulating to an exile's request directly, an emperor could acquiesce to the petition of his mother or sister as a token of familial solidarity.

Late antique sources also describe or imagine powerful women appreciating the plight of the banished and placating their male counterparts. In the third century, Hippolytus claims that during the reign of Commodus (177–192), the imperial concubine Marcia obtained from the emperor a pardon for Christians sent to the Sardinian mines.⁷³ This episode speaks not of banishment, of course, but it does highlight the larger trend. Sources for the later Empire think of women serving the process in this way as well. Sozomen relates that Constantine's half-sister Constantia took up the cause of bishops Eusebius and Theognis, supplicated her brother, and achieved their pardon.⁷⁴ In his *Ecclesiastical History*, Theodoret envisions the matrons of Rome petitioning Constantius for the recall of their bishop, Liberius.⁷⁵ Although Liberius eventually capitulated in banishment, other parties may well have supplicated the emperor on Liberius's behalf.⁷⁶ Collectively, the evidence suggests that women could become involved in the banishment cycle as intercessors and therefore retained an important function in this process.⁷⁷ In particular, the emperor's female relatives enjoyed a position that entitled them to contend on behalf of the banished.

In rare cases, the urban plebs could mobilize on behalf of exiles. From the earliest period of the Empire, in fact, the Roman populace had

taken it upon itself to accost the emperor through organized chants and shouts. These displays were part of the exercise of power (or its vestiges) from a populace that had lost its sovereignty in practice, though never in principle.⁷⁸ These could become petitions for particular judgments on a person, such as their request for the pardon of Augustus's daughter, Julia.⁷⁹ In the later Roman Empire, observers maintained the belief that a city could organize in such a way—although doubt surrounds the accuracy of that belief and, even if it was sound, how effective their demonstrations would be. The accounts of both Sozomen and Theodoret indicate that the Roman plebs petitioned for Liberius's recall.⁸⁰ As we will see momentarily, the decisive factor in Liberius's case was probably his capitulating to the authorities, not the reverse.⁸¹ In other locations at other moments, the populace may have taken it upon itself to promote the cause of someone banished.⁸² The city of Alexandria is known to have pled for others' recall using various techniques. In 362, members of the city petitioned Julian to restore Athanasius, apparently in writing.⁸³ In any case, the petition fell on deaf ears as Julian snubbed the request. In a similar but somewhat more assertive vein, the people of Alexandria used their area's importance as the breadbasket of the eastern Empire to apply pressure to the mid-fifth-century emperor Marcian. To bargain for the return of the banished bishop Dioscorus, they threatened to stop the Egyptian grain shipment to the capital.⁸⁴ This gambit, according to Theophanes, backfired when Marcian had the corn shipment routed through Pelusium rather than Alexandria, thus starving the city that threatened to starve him.

In total, the material on populaces acting as emissaries is problematic. In order to conclude with confidence that cities helped their favorites to return from banishment, one would like to see evidence that both portrays the process achieving a successful outcome and is not contradicted by other information. None of our materials meets both criteria. As such, the data support two separate deductions: first, supplication by urban communities took place from time to time, certainly with enough frequency to make the phenomenon a familiar trope to a variety of authors; second, these demonstrations did not enjoy a high rate of success.

When it came to finding and exploiting emissaries to plead for one's recall, the rise of the church marks a momentous development. The institutional aspect of Christianity provided a new and effective instrument to connect an exile with the authority that could recall him. Of course, much of the outcome depended on the individual emperor's willingness to entertain Christian supplication. Valentinian, for instance, made himself largely inaccessible to the clergy.⁸⁵ An emperor aligned with a bishop's party, position, or outlook could prove a more amenable subject.

Eusebius and Theognis, the bishops banished after Nicaea, realized how vital ecclesiastical help would be. In their letter, they plead the unnamed but clearly ecclesiastical addressees to bring the matter to the

emperor's attention and to express their petition.⁸⁶ Their missive flatters the potential liaisons in the belief that developing good will would translate into tangible results. In the letter's own words, "if you deem it worthy now to take us up again face to face, you will have [us] in unity in every way, guided by your decisions . . . Therefore deem it worthy, as suits your Christ-loving piety, and mention to the most God-beloved emperor and to entrust our entreaty [to him] and sooner deliberate on the things applicable to you concerning us."⁸⁷

In like fashion, Liberius of Rome labored to convince other bishops to make his case with the emperor Constantius. His exilic letters insisted with growing urgency that he wished to align himself with the imperially favored position (which meant a disavowal of the bishop Athanasius) and that therefore his episcopal addressees should contend on his behalf. In a letter sent to his adversaries in the western church, Ursacius, Valens, and Germinius, Liberius reveals that he had asked "brother Fortunatianus" to bring his letter to the emperor; he goes on to request that the recipients, his former antagonists, undertake a mission to Constantius as well, assuring them, "I am at peace with you in a spirit of calm and honesty. Great will be the comfort you secure on the day of retribution, if through you has been restored the peace of the Roman church."⁸⁸ Liberius's letter makes its points deliberately and repetitively. Throughout, he chooses to submit this request under the auspices of peace. The two cardinal terms that he emphasizes in the letter, *pax* and *concordia*, sound a note of conciliation and signal his willingness to put aside theological differences for the sake of unanimity within the church.⁸⁹ Accentuating these values expressed his interest in finding common ground with his opponents, and therefore implied a willingness to cease the beliefs and behaviors that led to his banishment. In addition to making this display of his amenability, Liberius took practical steps to enable his homecoming. Expressing to the other bishops his feelings of concord was but the initial step in the process. He endeavored to bring those expressions to the emperor's attention through various pathways. He deployed Fortunatianus to the emperor, bringing with him a copy of Liberius's conciliatory letter. What is more, Liberius implores his nemeses to undertake a restoration mission for him.⁹⁰ The letters that Liberius sent to other bishops were consciously and explicitly intended to serve as public notices to the emperor as well. He needed only a liaison to conduct his message to the authority that could rescind his sentence.

The Council of Serdica, held in 343, evidenced the extent to which the church's presence in the Roman world had become related to banishment. According to the Latin recension, bishop Ossius there proposed, "since it often happens that those who suffer a wrong or who as offenders are condemned to exile or an island or at any rate receive some sentence flee to the mercy of the Church, they are to be given relief, and forgiveness [*indulgentiam*] is to be asked for them without hesitation."⁹¹ For its part,

the priestly assembly noted and ratified this practice. Evidently, those sentenced to banishment were in the habit of taking sanctuary in the church and pleading with their local bishop for help alleviating this penalty.⁹² The bishops, moreover, had grown accustomed to taking up the cause of such individuals. This is a crucial point. Locals, who may or may not have been Christians, had grown accustomed to committing themselves to the bishops' protection in the hopes of finding refuge. It is conspicuous that the bishops at Serdica would single out banishment (though they also include an open-ended clause acknowledging miscellaneous punishments [*aut certe quancumque sententiam excipiunt*]) as the specific penalty that they felt bound to prevent. Additionally, the council's actions have the effect of recognizing, even institutionalizing, a practice that already had been occurring on a local and ad hoc basis. Bishops, as revealed by the consensus at Serdica, viewed intercession for the banished as an inherent part of their duties. Placing this task in the realm of religious obligation connected the episcopacy and banishment in a crucial but easily overlooked manner. Bishops were of course the victims of banishment, but they were also involved with it as brokers of *indulgentia*.

Bishops had access to a system that could overcome the distance of banishment to reach and beseech the relevant authority. The churches of the Empire, connected vertically to the holders of imperial power through its most prominent members and linked horizontally through episcopal communications and allegiances, formed an organization capable of transmitting messages and delivering them to the influential. Furthermore, bishops proved themselves willing to embark on travel to approach and placate an emperor on behalf of a regretful populace; this too could help overcome distance.⁹³ Exiles concluded that bishops, properly motivated, could relay information and even deliver it to the inaccessible emperor. Thus, the church did not possess a single, unique trait that gave it such a strong capacity to plead exiles' cases; rather, it combined all of the necessary qualities and organized them in a corporate body.

In sum, the church exerted a double influence on the practice of pardon: first, by organizing regular moments of mercy according to its calendar; second, by institutionalizing the efforts to secure pardon for exiles. Squeezing the process of pardon like a clamp, Christian efforts and sensibilities regulated this facet of banishment and gave it an official, even liturgical, place. It is, of course, true that banishment impinged upon many church leaders, and these moments receive considerable attention in sources ancient and modern. However, the effects of Christianity on this ancient Roman institution are easily overlooked, even though they had the capacity to affect greater numbers of individuals.

This final stage also helps to reveal other of banishment's essential features. Unlike the death penalty, it could aspire to the rehabilitation and restoration of the exile. The benefits for the person punished are obvious, but those settled on this course of action also derived certain

profits. Change was possible: the person punished could reverse course and the person who banished could also become the person who pardoned. Offering pardon, even acting as its emissary, had an allure for all parties involved. If an exile succeeding in plucking the right strings, he could express the proper message, prevail upon an effective liaison, and propitiate the relevant authority. Done well, this stratagem resulted in an exile's restoration and completed the disciplinary circuit.

Abbreviations

ACC	<i>Acts of the Council of Chalcedon</i> , ed. Richard Price and Michael Gaddis
ACO	<i>Acta conciliorum oecumenicorum</i> , ed. Eduard Schwartz
ANF	Ante-Nicene Fathers
CCSL	Corpus Christianorum Series Latina
CJ	Code of Justinian/Codex Justinianus
C-N	P. R. Coleman-Norton. <i>Roman State & Christian Church: A Collection of Legal Documents to A.D. 535</i>
CSEL	Corpus Scriptorum Ecclesiasticorum Latinorum
CTh	Theodosian Code/Codex Theodosianus
D	Digest (of Justinian)
<i>Ep.</i>	<i>Epistle/Epistula</i> (<i>Epp.</i> for <i>Epistle/Epistulae</i>)
FC	Fathers of the Church
GCS	Die Griechischen Christlichen Schriftsteller der ersten [drei] Jahrhunderte (NF = Neue Folge)
HE	<i>Church History/Historia Ecclesiastica</i>
JECS	<i>Journal of Early Christian Studies</i>
JRS	<i>Journal of Roman Studies</i>
JThS	<i>Journal of Theological Studies</i>
LCL	Loeb Classical Library
LS	Lewis and Short, <i>A Latin Dictionary</i>
LSJ	Liddell, Scott, Jones, <i>Greek-English Lexicon</i>
MGH	Monumenta Germaniae Historica (AA = Auctores Antiquissimi; SRM = Scriptores rerum merovingicarum)
OLD	<i>Oxford Latin Dictionary</i> , ed. P. G. W. Glare
Opitz	Hans-Georg Opitz. <i>Athanasius Werke</i> vol. 3: <i>Urkunden zur Geschichte des arianischen Streits: 318–328</i> . Berlin, 1935.
<i>Or.</i>	<i>Oration/Oratio</i>
NAnth	Novels of the Sainted Anthemius Augustus

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NMaj	Novels of the Sainted Majorian Augustus
NPNF	Nicene and Post Nicene Fathers
2 NPNF	Nicene and Post Nicene Fathers, Second Series
NVal	Novels of the Sainted Valentinian Augustus
PG	Patrologia Graeca
PL	Patrologia Latina
PLRE I	<i>Prosopography of the Later Roman Empire</i> : Volume I, ed. A. H. M. Jones, J. R. Martindale, and J. Morris
PLRE II	<i>Prosopography of the Later Roman Empire</i> : Volume II, ed. J. R. Martindale
SC	Sources chrétiennes
Sirm	Sirmondian Constitutions
TTH	Translated Texts for Historians

Notes

NOTES TO THE INTRODUCTION

1. Unless noted, all dates will refer to the Common Era.
2. A. H. M. Jones, *The Later Roman Empire 284–602: A Social, Economic, and Administrative Survey* (Baltimore: The Johns Hopkins University Press, 1964), 1:373–75; T. F. Carney, *Bureaucracy in Traditional Society: Romano-Byzantine Bureaucracies Viewed from Within* (Lawrence: Coronado Press, 1971) 90–91.
3. Carney, *Bureaucracy*, 1:90; H. A. Drake, *Constantine and the Bishops: The Politics of Intolerance* (Baltimore: Johns Hopkins University Press, 2000), 54.
4. Jones, *Empire*, 1:40. See also Simon Corcoran, “Before Constantine,” in *The Cambridge Companion to the Age of Constantine*, ed. Noel Lenski, 35–58, at 43 (Cambridge: Cambridge University Press, 2006).
5. The sixth-century chronicler count Marcellinus, *Chronicle* A.C. 476/Ind. 14, relates that “Odoacer sentenced Augustulus, son of Orestes, to the punishment of exile (*exilium*) in Lucullanum, a fortress in Campania.” It is tempting, based on this phrasing, to say that the western Empire concluded in exile. Jordanes, *The Origin and Deeds of the Goths* 242 (sixth century) expresses the same sentiment. However, it is not clear from the *Anonymus Valesianus* 2.8.37–38 that Romulus’s condition was a formal version of *exilium*. On the barbarians and the end of the western Roman Empire, see, briefly, Jones, *Empire*, 1:240–65; also, E. A. Thompson, *Romans and Barbarians: The Decline of the Western Empire* (Madison: University of Wisconsin Press, 1982), 61–76; Herwig Wolfram, *The Roman Empire and its Germanic Peoples*, trans. Thomas Dunlap (Berkeley and Los Angeles: University of California Press, 1997), 183–93.
6. Eric Fournier, “Victor of Vita and the Vandal ‘Persecution’: Interpreting Exile in Late Antiquity” (PhD dissertation, University of California Santa Barbara).
7. Gregory of Tours, *History of the Franks* 10.31.7. Gregory has misrepresented the timing of Volusianus’s expulsion in order to make the Gothic king Alaric seem despotic: see Peter Heather, *The Goths* (Oxford: Blackwell, 1996), 213–14. On Gothic Arianism, see *ibid.*, 60–61, 312–21.
8. Additionally, Alaric II banished Caesarius of Arles, in southern Gaul, to Burdigala (Bordeaux), in southwest Gaul, on a treason charge. See *Life of Caesarius* 1.21; William Klingshirm, *Caesarius of Arles: The Making of a Christian Community in Late Antique Gaul* (Cambridge: Cambridge University Press, 1994), 93–97.

9. On Flavius Apion (PLRE II: Apion 2), see Peter Sarris, *Economy and Society in the Age of Justinian* (Cambridge: Cambridge University Press, 2006), 16–17.
10. Procopius, *Gothic War* 1.25.14.
11. Sara Forsdyke, *Exile, Ostracism, and Democracy: The Politics of Expulsion in Ancient Greece* (Princeton: Princeton University Press, 2005), 9–10; Gordon Kelly, *A History of Exile in the Roman Republic* (Cambridge: Cambridge University Press, 2006), 5; Jan Felix Gaertner, “The Discourse of Displacement in Greco-Roman Antiquity,” in *Writing Exile: The Discourse of Displacement in Greco-Roman Antiquity and Beyond*, ed. Jan Felix Gaertner, 1–20, at 2–3 (Leiden: Brill, 2007).
12. On refugees in late antiquity, see *Late Antiquity: A Guide to the Postclassical World*, ed. G. W. Bowersock, Peter Brown, and Oleg Grabar (Cambridge: Belknap Press of Harvard University Press, 1999), s.v. “Refugees.”
13. Socrates 5.16.1–9. PLRE I: Helladius 4, Ammonius 3. Libanius, *Oration* 1.226–28; *Oration* 29. PLRE I: Icarus 2.
14. *Oxford English Dictionary*, J.A. Simpson and E.S.C. Weiner (Oxford, Clarendon Press, 1989), s.v. “ban, n. 1.”
15. *Oxford English Dictionary*, s.v. “exile.”
16. Barthold Georg Niebuhr, *The History of Rome*, trans. Julius Charles Hare and Connop Thirlwall, 3rd ed. (London: J. Wertheimer for Taylor and Walton, 1837–1844), 2:64n28. Ferdinand Walter, *Geschichte des Römischen Rechts bis auf Justinian* (Bonn, E. Weber, 1861), 484n59. Theodor Mommsen, *Römisches Staatsrecht* (Graz: Akademische Druck- u. Verlagsanstalt, 1952–53), 48n2, 51n2.
17. Polybius 6.14. Similarly, Niebuhr *History*, 2:64n29 and Walter, *Geschichte*, 484n56 both appeal to Livy 26.3, describing the trial of Gnaeus Fulvius Flaccus. For a summation of this episode and references to previous scholarship, see Kelly, *History*, 163–64.
18. Niebuhr, *History*, 2:65n132. Walter, *Geschichte*, 484n54. Mommsen, *Staatsrecht*, 51n3; *Strafrecht*, 69n2.
19. Cicero, *In Defense of Aulus Caecina* 100.
20. Richard Bauman, *Crime and Punishment in Ancient Rome* (New York: Routledge, 1996), 14.
21. Kelly, *History*, 20.
22. Kelly, *History*, 61.
23. Ernst Ludwig Grasmück, *Exilium: Untersuchungen zur Verbannung in der Antike* (Paderborn: Ferdinand Schöningh, 1978), 147.
24. Kelly, *History*, 70. Kelly places the Gracchan boundary at 123 BCE (not, as might be expected, at the time of Gaius Gracchus’s death in 122) due to the landmark case of Publius Popillius Laenas. At 71–73, Kelly argues that Popillius set precedent by choosing an exile site outside of Italy and by achieving a formal recall.
25. Kelly, *History*, 14.
26. Giuliano Crifò, *Ricerche sull’ “exilium” nel periodo repubblicano* (Milan: Giuffrè, 1961), 4, 103.
27. Crifò, *Ricerche*, 24.
28. Garnsey, *Social*, 120–21. However, he indicates that lower-rank criminals typically received more severe punishments and that relegation and deportation usually remained the alternative sentenced upon the *honestiores* (those of the “more honorable” class).
29. Grasmück, *Exilium*, 146–47.
30. Grasmück, *Exilium*, 148. In regards to class, Grasmück contends that exile remained the preserve of the elite: *ibid.*, 147.

31. Bauman, *Crime*, 14, see also 26–29.
32. Bauman, *Crime*, 27.
33. Kelly, *History*, 8.
34. Kelly, *History*, 9.
35. Kelly, *History*, 10–11, 252.
36. Jo-Marie Claassen, *Displaced Persons: The Literature of Exile from Cicero to Boethius* (Madison: University of Wisconsin Press, 1999), 2.
37. Tim Whitmarsh, “‘Greece Is the World’: Exile and Identity in the Second Sophistic,” in *Being Greek under Rome: Cultural Identity, the Second Sophistic, and the Development of Empire*, ed. Simon Goldhill, 269–305, at 270 (Cambridge: Cambridge University Press, 2001).
38. Whitmarsh, “‘Greece,’” 271.
39. Whitmarsh, “‘Greece,’” 275.
40. Whitmarsh, “‘Greece,’” 272.
41. Gaertner, “Discourse,” 20.
42. Kelly, *History*, 4–5.
43. Also known as the *Codex Theodosianus*, it will abbreviated throughout as CTh or referred to simply as “the Code.”
44. On the nature of the CTh in general, see Jill Harries, “The Roman Imperial Quaestor from Constantine to Theodosius II,” *JRS* 78 (1988): 148–172, esp. 165–66; Tony Honoré, “The Making of the Theodosian Code,” *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte. Romanistische Abteilung* 103 (1986): 133–222, esp. 136–37; John Matthews, *Laying Down the Law: A Study of the Theodosian Code* (New Haven: Yale University Press, 2000), 171–72; all work substantially from CJ 1.14.8.
45. Other forms, such as *rescripta*, had diminished in importance and were also too narrow to qualify for inclusion in the Code: Jill Harries, “Introduction: The Background to the Code” in *The Theodosian Code: Studies in the Imperial Law of Late Antiquity*, 2nd ed., ed. Jill Harries and Ian Wood, 1–16, at 3 (London: Bristol Classical Press, 2010). On rescripts, see also Tony Honoré, *Emperors and Lawyers*, 2nd ed. (Oxford: Clarendon Press, 1994), 33–70.
46. Harries, “Quaestor,” 164. See also Jill Harries, *Law and Empire in Late Antiquity* (Cambridge: Cambridge University Press, 1999), 47–53.
47. Harries, “Quaestor,” 164.
48. The evidence is not precise here; scholars view it differently: Honoré, “Making,” 136; Harries, “Quaestor,” 166. On the consistory, see Jones, *Empire*, 1:333–41; Harries, *Empire*, 38–42.
49. Honoré, “Making,” 137.
50. Harries, “Quaestor,” 163.
51. Matthews, *Laying*, 168–99.
52. Harries, *Empire*, 21–24; Matthews, *Laying*, 1–9.
53. Matthews, *Laying*, 65–71.
54. A. J. B. Sirks, *The Theodosian Code: A Study* (Friedrichsdorf: Éditions Tor-tuga, 2007), 10n25.
55. Matthews, *Laying*, 85–90.
56. Harries, “Quaestor,” 153.
57. Harries, “Quaestor,” 151–53.
58. Zosimus 5.23.6; Harries, “Quaestor,” 153.
59. Matthews, *Laying*, 176.
60. Harries, “Quaestor,” 159.
61. Honoré, “Making,” esp. 189.
62. Harries, “Quaestor,” 163.
63. Harries, “Quaestor,” 153.

64. Judith Evans Grubbs, *Law and Family in Late Antiquity: The Emperor Constantine's Marriage Legislation* (Oxford: Oxford University Press, 1995), 49.
65. Comparison indicates that the editors of the Code ordinarily removed only the preamble that spelled out the reason for the law and the epilogue that handled its execution: Honoré, "Making," 159–62; Matthews, *Laying*, 121–67; Mark Vessey, "The Origins of the *Collectio Sirmondiana*: A New Look at the Evidence," in *Code*, ed. Harries and Wood, 161–77.
66. On Justinian's Code, see Tony Honoré, *Tribonian* (London: Duckworth, 1978), esp. 1–39.
67. Olga Tellegen-Couperus, *A Short History of Roman Law* (London: Routledge, 1993), 146.
68. See Jones, *Empire*, 1:499–502; Harries, *Empire*, 153–71; Jill Harries, *Law and Crime in the Roman World* (Cambridge: Cambridge University Press, 2007), 38–41.
69. See in brief Jones, *Empire*, 1:521–22; in greater detail, Harries, *Crime*, 1–33. On urban policing, see Ramsay MacMullen, *Enemies of the Roman Order: Treason, Unrest, and Alienation in the Empire* (Cambridge: Harvard University Press, 1966), 163–67.
70. Jones, *Empire*, 1:471–73.
71. The West at times adopted a law from the East, but not (it seems) vice versa, see: Tellegen-Couperus, *History*, 126. See also Evans Grubbs, *Family*, 4.
72. Athanasius, *Defense of His Flight* 24.3.
73. Athanasius, *History of the Arians* 68.
74. On the writing of these two works, see Timothy Barnes, *Athanasius and Constantius: Theology and Politics in the Constantinian Empire* (Cambridge: Harvard University Press, 2001), 124–32.

NOTES TO CHAPTER 1

1. Crifò, *Ricerche*, 103; Peter Garnsey, *Social Status and Legal Privilege in the Roman Empire* (Oxford: Clarendon Press, 1970), 121.
2. On the jurists generally, see O. F. Robinson, *The Sources of Roman Law: Problems and Methods for Ancient Historians* (London: Routledge, 1997), 42–48.
3. On the jurists' outdated perspectives, see Harries, *Crime*, 2–4, 7–9.
4. Occasionally an imperial law, such as CTh 10.20.6, will refer to a form of banishment which included confiscation of property as *proscriptio*. This term does not arise very frequently and when it does appear, it usually describes only the fact of property confiscation, not the act of banishment; see e.g. CTh 9.41.1 and 12.1.92, which clearly applies proscription to the offender's patrimony and deportation to his person. *Aquae et ignis interdictio* had been replaced gradually by *deportatio* around the time of Augustus: see Adolf Berger, *Encyclopedic Dictionary of Roman Law* (Philadelphia: The American Philosophical Society, 1953), 432; W. W. Buckland, *A Textbook of Roman Law from Augustus to Justinian*, 3rd ed. (Cambridge: Cambridge University Press, 1966), 97n7. Yet it occasionally makes an appearance in the jurists' antiquarian discussion.
5. See the Introduction, part II. On the earlier history and development of *religatio* and *deportatio*, see, briefly, O. F. Robinson, *Penal Practice and Penal Policy in Ancient Rome* (London: Routledge, 2007), 81–82 and the excellent discussion in Garnsey, *Social*, 111–22.
6. LS, s.v. "*deporto*" and "*relego*."
7. Temporary: D 48.10.21. On the dates of the jurists, see Tellegen-Couperus, *History*, 101–105 and their respective entries in Berger, *Dictionary* and

Manfred Landfester and others, eds., *Brill's New Pauly: Encyclopaedia of the Ancient World*, 16 vols. (Boston: Brill, 2006–2011).

8. D 48.22.7.2, 48.22.14.
9. Papinian: D 48.23.3; Marcian: D 48.22.4; Macer: D 48.20.8.3. Also, Pomponius (D 48.22.1) cites a rescript issued by Trajan to the effect that, in cases of *relegatio*, he did not wish the imperial treasury to confiscate the condemned's property.
10. At D 48.22.7.4, Ulpian states that temporary *relegati* should not lose their property; at D 48.22.14.1, he leaves open the possibility of property confiscation under *relegatio*. Perhaps he felt that crimes serious enough to merit perpetual *relegatio* also merited confiscation of property.
11. D 48.19.17. On the types of *ius*, see Harries, *Empire*, 10.
12. D 48.20.7.5.
13. D 48.22.14.1, see also D 48.22.5.
14. Marcian: D 48.22.4; Paulus: D 48.20.7.5; Macer: D 48.20.3.
15. D 4.5.11. See J. A. C. Thomas, *Textbook of Roman Law* (Amsterdam: North-Holland Publishing Company, 1976), 449; Paul du Plessis, *Borkowski's Textbook on Roman Law*, 4th ed. (Oxford: Oxford University Press, 2010), 87.
16. Technically, any modification of a person's *caput* was called *capitis deminutio*, even if it increased rather than diminished it. See Thomas, *Textbook*, 449–50.
17. Gaius, *Institutes*, 1.161–162.
18. No right to manumission: D 48.22.2; citizenship and freedom: D 48.22.15.
19. D 48.1.2.
20. D 50.13.5.3.
21. D 50.13.5.2–3; Callistratus states that *deportatio* also strips away *dignitas*, whereas *relegatio* merely erodes it. *Dignitas* will be discussed momentarily.
22. D 48.19.28.pr.1.
23. Macer: D 48.11.7.; Marcian: D 48.8.3.5 and 48.19.4; Modestinus: D 48.8.16.
24. D 48.22.5.
25. D 48.22.14.
26. D 48.22.6.
27. For these and other terms, see Garnsey, *Social*, 224–28.
28. See Garnsey, *Social*, 182–5, 224–8.
29. D 48.8.1.5, 48.19.28.9, 48.19.38.2.
30. D 48.19.28.1, 50.13.5.2–3.
31. D 48.23.2–3.
32. D 48.1.2.
33. D 47.10.43. See Garnsey, *Social*, 228 on *ordo*.
34. D 48.19.38.3, 48.19.38.10. On the pedantic judges (*iudices pedanei*), see Jones, *Empire*, 1:479.
35. D 23.3.73.1.
36. D 24.1.13.1.
37. Isidore of Seville, *Etymologies*, 5.27.28.
38. On *deportatio*: D 48.19.17, 48.22.2, 48.22.15; on the tripartite nature of *exilium*: 48.22.5.
39. D 27.1.29pr.
40. Temporary: at D 27.1.28.2, 42.4.13, 48.10.13.1, 48.19.39; perpetual: at D 49.14.39pr. Tryphoninus at D 48.19.39 and Ulpian at D 37.14.1 also refer to temporary *exilium*.
41. Macer's usage at D 48.11.7.3 mildly suggests this usage as well. There, Macer suggests that *exilium* should be the minimum penalty for *repetundae*

although the circumstances may call for worse. He then goes on to discuss *deportatio* as the minimum punishment for other graver matters, which may be an example of the kinds of penalties he had in mind.

42. D 48.19.28.13. See also Garnsey, *Social*, 115.
43. D 48.19.28.3.
44. D 48.22.7.4.
45. On the process of compilation, see Honoré, *Tribonian*, 139–86; briefly, Robinson, *Sources*, 20–2. It is also true that prior to Justinian, the law schools in Constantinople and Beirut had begun compiling juristic opinions: Tellegen-Couperus, *History*, 140.
46. See Daniëlle Slootjes, *The Governor and His Subjects in the Later Roman Empire* (Boston: Brill, 2006), 28–31, 47–50.
47. Women: CTh 3.16.1; counterfeiting: CTh 9.21.2; fiscal: CTh 10.11.1; litigants: CTh 11.34.1; decurions: CTh 12.1.6. On the first and last of these, see Evans Grubbs, *Family*, 228–32 and 277–78. Constantine also changed the punishment for violence (*violentia*) from *relegatio* or *deportatio* to an island to death (CTh 9.10.1).
48. For instance, CTh 2.1.6, 2.1.9, and 9.16.12.
49. CTh 10.24.2; 16.5.34. Sirm 11.
50. By contrast, CTh 11.7.16 simply thinks of *deportatio* as a contrast to temporary *exilium*.
51. CTh 3.10.1, 3.16.2, 6.30.16–17, 9.21.2, 9.23.1, 9.25.3, 9.42.8, 11.14.3, 16.5.36.2, 16.5.46.
52. Jones, *Empire*, 1:421. The laws he cites in support (at 2:1171n28) mostly deal with capital penalties (which probably connote death, not deportation). CTh 16.5.12, 16.5.21, 16.5.30 (heresy), CJ 1.11.8 (paganism), and CTh 16.9.21.2 are the exceptions that deal with *deportatio* and forms of banishment.
53. Ammianus 29.1.21 censures Valens (after the emperor's death) for using banishment and confiscation to increase his treasury. The point of his criticism seems to be that the emperor used this punishment excessively and for reasons of avarice, but not that confiscation of an exile's property was unjust.
54. CTh 9.42.8. See Jones, *Empire*, 1:421.
55. CTh 9.43.1. On this law, see Caroline Humfress, "Cracking the Codex: Late Roman Law in Practice," *Bulletin of the Institute of Classical Studies* 49 (2006): 251–64, at 246–47. See further pp. 147–48.
56. CTh 9.43.1.3.
57. D 1.6.3. On *patria potestas*, see Susan Treggiari, *Roman Marriage: Iusti Coniuges from the Time of Cicero to the Time of Ulpian* (Oxford: Clarendon Press, 1991), 15–16; Evans Grubbs, *Family*, 115.
58. CTh 3.10.1.
59. CTh 9.32.1. Actual Nile-diverters themselves were to be burned alive.
60. The lone constant was that it maintained a juridical implication; those who held Roman citizenship had access to the procedures of the Roman legal system, if they cared to use it: Peter Garnsey, "Roman Citizenship and Roman Law in the Late Empire" in *Approaching Late Antiquity: The Transformation from Early to Late Empire*, ed. Simon Swain and Mark Edwards, 133–55 (Oxford: Oxford University Press, 2004), at 135–40.
61. On this point, I am in partial disagreement with Max Kaser, *Das römische Privatrecht* (Munich: Beck, 1975), II:122–23. Kaser believes that *deportati* were worse off than *peregrini* because, unlike *peregrini*, they did not even have the benefit of the *ius gentium*. In other words, *deportati* were "rightless" and lived an existence akin to slavery. I do not find that his evidence fully supports the claim that *deportati* lost the protection of the *ius gentium*. He cites as evidence for the west, Gaius, *Epitome* (part of the *Lex*

Romana Visigothorum) 1.6.1 and 2.3.5, which mentions only *exilium* and Roman citizenship (not *deportatio* and *ius gentium*); in fact, 1.6.1 likens those in *exilium* to *peregrini*. See also CJ 6.24.1 (middle second century), which equates the legal position of *deportati* and *peregrini*. Kaser's evidence for the East is on stronger footing. There, he cites CJ 2.15.2.1, a law of 439 commanding that certain offenders be proscribed, deported, and deprived of both Roman citizenship and liberty. Kaser's interpretation requires that the loss of liberty there be an automatic consequence of *deportatio* and the equivalent of exclusion from the *ius gentium*. The second supposition seems sound—this law's combination of conditions certainly contrasts with the classical formulation, expressed by the jurists Gaius and Marcian, in which *deportatio* negated Roman citizenship but preserved liberty. With respect to the first supposition, however, I find that the law reads more easily when the impairments are taken as additions to proscription and *deportatio*, rather than as their definition.

62. Cassius Dio, 77.9–10. Caracalla's decision in many ways confounds analysis and carries implications for punishment at which we can only guess. On its ramifications, see Garnsey, "Roman Citizenship," 143–44; Peter Garnsey and Caroline Humfress, *The Evolution of the Late Antique World* (Cambridge: Orchard Academic, 2001), 88–91; Ralph Mathisen, "Peregrini, Barbari, and Cives Romani: Concepts of Citizenship and Legal Identity of Barbarians in the Later Roman Empire," *American Historical Review* 111, no. 4 (October 2006): 1011–1040.
63. CTh 9.43.1.3.
64. On *dignitas*, see A. H. J. Greenidge, *Infamia: Its Place in Roman Public and Private Law* (Oxford: Clarendon Press, 1894), 1–8; Garnsey, *Social*, 182–85, 224–28; the collected essays in Rolf Rilinger, *Ordo und dignitas. Beiträge zur römischen Verfassungs- und Sozialgeschichte* (Stuttgart: Franz Steiner Verlag, 2007), esp. "Ordo und dignitas als soziale Kategorien der römischen Republik" (pp. 95–104) and *Die Interpretation des späten Imperium Romanum als Zwangsstaat* (pp. 355–374).
65. In certain cases, it clearly points to the traditional sense, that of social status. We see this in both the laws (CTh 12.1.5; 12.1.42) and extra-legal materials (Salvian, *On the Government of God* 5.44). In addition, it came to designate the high offices, which themselves would seem to have conferred the associated rank upon its holders and their families (it is this sense that Ulpian uses in D 1.9.8). Most obviously, the *Notitia Dignitatum* is itself a list of the offices in the Roman government (see Jones, *Empire 2*: Appendix II—"The Notitia Dignitatum"). For a detailed study of these essential terms, see Fergus Millar, "Empire and City, Augustus to Julian: Obligations, Excuses and Status" *JRS* 73 (1983): 76–96. The shades of meaning in *dignitas* are frequently bound inseparably together; see Garnsey, *Social*, 224–25.
66. Garnsey, *Social*; Robinson, *Penal*, 105–108; Garnsey and Humfress, *Evolution*, 84–91.
67. Garnsey, "Citizenship," 149.
68. For instance, CTh 9.30.5, 9.38.10, 12.19.3.
69. CTh 1.5.3, 3.5.5, 8.5.4. See also CTh 9.40.17.
70. CTh 9.40.12; NMaj 9.1.
71. To keep this individual distinct from the famous bishop of the same name, he is referred to throughout as "Ambrosius." *Adulterium* was an affair that included a married woman. On *adulterium* in general, see Treggiari, *Marriage*, 262–319; Evans Grubbs, *Family*, 203; Bauman, *Crime*, 32–34; also p. 197n141.
72. NMaj 9.1.

73. In one sense, Majorian's was a meaningless change. Ambrosius had already flouted the law by escaping. If he were beyond apprehension, then it would matter very little whether he was a *relegatus* or a *deportatus*. However, *deportatio* did make a financial difference, at least from the governmental perspective. The point of changing the sentence was probably to confiscate any funds possible, *pace* Geoffrey Nathan, *The Family in Late Antiquity: The Rise of Christianity and the Endurance of Tradition* (London: Routledge, 2002), 112, who believes that with this law Majorian stiffened the penalties for adultery. It appears that Majorian's increased punishment was the result of Ambrosius's second infraction (disobeying his punishment of *relegatio*), not his first (adultery).
74. However, some evidence can still sustain such an explanation. For instance, a law of Valentinian II in 385 (CTh 2.1.6) originally invokes a penalty of *deportatio*; however, the Visigothic interpretation of this same law explains that culprits were to be punished with *exilium*. The interpretation under Alaric exhibits either a maximal understanding of *exilium* (that it can be used interchangeably with *deportatio*) or an inclusive one (that it describes *deportatio* as well as other types of banishment).
75. For an improper loan: CTh 10.24.2; for corrupt solicitation: CTh 9.26.1; for injuring the church: Sirm 11.
76. CTh 9.40.22. The law does not state the location where it was issued, which normally reveals which court produced it. However, it is addressed to Anthemius (=Anthemius I in PLRE II), who was praetorian prefect of the Orient in the year of the law's issue, 414. Because the Orient was a portion of the eastern Empire, this law must have come from the eastern court; that is, the one serving under Theodosius II.
77. The phrase *diversis exiliis* could also imply "*exilium* to diverse places." However, that reading would seem impossible here because the exiles had not gone to diverse places; they had remained in jail. A further difficulty surrounds the law's stipulation that the exiles would need to have spent "the limit of the time prescribed" (*metas temporis praestituti*) in jail. This limit could refer to the maximum amount of time they should have remained in jail. Alternatively, it could refer to the duration of the exile sentence. While it seems odd that an official would sentence a person to exile and then confine him indefinitely in jail, it is possible. An eastern law of Leo I in 468 (CJ 1.4.15 = 2.6.8) shows that its drafters could see significant variety within *exilium*. Requiring adherence to Catholic Christianity as the prerequisite for work in magisterial courts, it informs the praetorian prefect that any advocate who circumvents this regulation was to suffer proscription and perpetual *exilium* while the provincial rectors who permit such activity were to endure proscription of half of their goods and *exilium* for five years. *Exilium* in this law is too vague to fix a meaning, but it does cover both serious and minor versions of banishment.
78. NMaj 9.1.
79. Sirm 8.
80. CTh 11.7.16.
81. CTh 16.5.57.
82. CTh 16.5.58.2–3.
83. Tony Honoré, *Law in the Crisis of Empire, 379–455 AD: The Theodosian Dynasty and Its Quaestors with a Palingenesia of Laws of the Dynasty* (Oxford: Clarendon Press, 1998), 102–106.
84. CTh 8.5.17.1. Menander's office is not known. See PLRE I: Menander 2.
85. On this history and the sources' confusion, see Alan Cameron, Jacqueline Long, Lee Sherry, *Barbarians and Politics at the Court of Arcadius* (Berkeley

- and Los Angeles: University of California Press, 1993), 162–63, 324–25; J. N. D. Kelly, *Golden Mouth: The Story of John Chrysostom: Ascetic, Preacher, Bishop* (Grand Rapids: Baker Books, 1995), 145–50.
86. CTh 9.40.17.
 87. Ammianus 27.7.3. PLRE I: Memmius Vitasius Orfitus signo Honorius 3.
 88. Firmicus Maternus, *Mathesis* 2.29.10–19. See Timothy Barnes, “Two Senators under Constantine,” *JRS* 65 (1975): 40–49.
 89. Firmicus Maternus, *Mathesis* 2.29.10, 14, 17. In 2.29.18, he also states that the native was *absconsarum litterarum sciens*, which Barnes, “Senators,” 41 takes as an additional charge. I am not convinced that Firmicus’s diction requires that the native’s knowledge of the occult formed the basis for a separate allegation.
 90. See Evans Grubbs, *Family*, esp. 317–42.
 91. A source simply employing a form of *relegatio* or *deportatio* is not automatically an instance of precise legal reporting. They may give us some sense of the colloquial usages of the terms, but we cannot assume that an extra-legal source preserves the original language of the verdict. For instance, the *Liber Pontificalis* 51.1 remarks that pope Gelasius deported Manichaeans into *exilium*. On this event, see pp. 78–79. At present, what matters is that the Liber cannot have the minimal sense of *exilium* in mind. A maximal sense is possible, but a casual use of the general sense (in which *deporto* means “to send away” and *exilium* connotes any sort of state of ejection) is more likely.
 92. Lactantius, *On the Deaths of the Persecutors* 39.4, 41.1.
 93. Jerome, *Illustrious Men*, 94, 95, 100. On Eusebius’s banishment, see Daniel Washburn, “Tormenting the Tormentors: A Reinterpretation of Eusebius of Vercelli’s Letter from Scythopolis,” *Church History* 78, no. 4 (December, 2009): 731–55, with bibliography on Lucifer and Hilary at 732–33nn5–6.
 94. Sulpicius Severus, *Chronicle* 2.39.4, 39.7.
 95. He uses the word *exilium* in many other instances, both general: *Chronicle* 35.2, 39.1, 43.3, 45.1–4; and specific: 39.3 (Paulinus of Trier), 42.2 (Hilary of Poitiers), 44.2 (in which Foegadius [=Phoebadius] of Agen indicates he is prepared for exile). At the end of his discussion of the controversy over the condemnation of Athanasius (*Chronicle* 2.39.8), Severus concludes that “those whom we spoke of above” (apparently including the *relegati* Eusebius and Lucifer) were sent into *exilium*.
 96. If Severus is right to not apply *relegatio* to Hilary, and Jerome is wrong to have done so, then it might explain why Hilary enjoyed so much freedom in banishment while Eusebius and Lucifer did not. See p. 171n93.
 97. Sulpicius Severus, *Chronicle* 2.51.2–4. On the status of Euchrotia and Latronianus, see Henry Chadwick, *Priscillian of Avila: The Occult and the Charismatic in the Early Church* (Oxford: Clarendon Press, 1976), 144.
 98. Sulpicius Severus, *Chronicle* 2.51.3. We do not know the location of Instantius’s sentence; see Chadwick, *Priscillian*, 20. On this event, see Paul Ashbee, *Ancient Scilly: From the First Farmers to the Early Christians* (London: David & Charles, 1974), 221–2.
 99. Sulpicius Severus, *Chronicle* 2.51.4. PLRE I: Tiberianus 3; Burrus, *Heretic*, 27.
 100. See Eric Fournier, “Exiled Bishops in the Christian Empire: Victims of Imperial Violence?” in *Violence in Late Antiquity: Perceptions and Practices*, ed. H. A. Drake, 157–66, at 158–60 (Burlington: Ashgate, 2006).
 101. A. H. J. Greenidge, *The Legal Procedure of Cicero’s Time* (New York: A. M. Kelley, 1971), 331–34; Garnsey, *Social*, 115, 119, 138; Kelly, *History*, 65–66.
 102. O. F. Robinson, *The Criminal Law of Ancient Rome* (Baltimore: The Johns Hopkins University Press, 1995), 79–82.

103. The point is not that the lower orders were intrinsically more disruptive. Rather, authors and magistrates tended to presume that mass demonstrations arose because of the spirit of unrest. See Timothy Gregory, *Vox Populi: Popular Opinion and Violence in the Religious Controversies of the Fifth Century A.D.* (Columbus: Ohio State University Press, 1979), 4; Ramsay MacMullen, "The Historical Role of the Masses in Late Antiquity" in his *Changes in the Roman Empire: Essays in the Ordinary* (Princeton: Princeton University Press, 1990), 250–76; Neil McLynn, "Christian Controversy and Violence in the Fourth Century." *Kodai* 3 (1992): 15–44.
104. D 48.19.28.3. Callistratus says that the *iuvēnes* should be punished with *exilium*, by which he seems to mean *relegatio*. He contrasts *exilium* with the next level of chastisement: capital punishment (which, for Callistratus, encompasses *deportatio* as well as crucifixion, burning alive, beheading, and working in the mines).
105. Frederick Cramer, *Astrology in Roman Law and Politics* (Philadelphia: American Philosophical Society, 1954), 237.
106. Tertullian, *On Flight in Persecution* 13. See MacMullen, *Enemies*, 165; O. F. Robinson, *Ancient Rome: City Planning and Administration* (New York: Routledge, 1992), 202. On the chronology of Tertullian's works, see Timothy Barnes, *Tertullian: A Historical and Literary Study* (Oxford: Clarendon Press, 1971), 30–56, esp. 55.
107. On peacekeeping forces, see Wilfried Nippel, *Public Order in Ancient Rome* (Cambridge: Cambridge University Press, 1995).
108. When laws use vague language about expulsion (such as usages of the verbs *pello* and *expello* in their passive forms), it is not clear whether they imagine magistrates trying malefactors and pronouncing a judgment such as *relegatio* or they expect magistrates simply to round up and throw out offenders. In rare cases, a law will both invoke a general verb and formal penalty. For instance, at CTh 9.16.12, Honorius's court commanded the conversion of astrologers. This law indicated first that astrologers should be expelled (*PELLI*) from the cities, which has the ring of *coercitio* to it. However, it goes on to say that astrologers could save themselves by burning their books and repenting before the bishop. If they refused to take those steps, they were then subject to *deportatio*. It makes little sense to imagine urban magistrates deporting those who had already been ejected (though that is not impossible). I prefer to take *deportatio* as a clarification of what the law's drafters had in mind by the earlier use of *PELLI*. Without that clarification (if indeed it is clarification), we would have no way of knowing that *PELLI* entailed *deportatio*. Later Roman magistrates may have been just as unclear.
109. CTh 14.10.1.3.
110. Clothing in Rome: CTh 14.10.2–3, Campus Martius: CTh 14.14.1. On the clothing laws, see John Matthews, "The Making of the Text" in *Code*, ed. Harries and Wood, 19–44, at 28. On the valence of these items of clothing, see the collected essays in *The World of Roman Costume*, ed. Judith Sebesta and Larissa Bonfante (Madison: University of Wisconsin Press, 1994), esp. Richard Gergel, "Costume as Geographic Indicator: Barbarians and Prisoners on Cuirassed Statue Breastplates," 191–210; A. T. Croom, *Roman Clothing and Fashion* (Charleston: Tempus Publishing Inc., 2000), 54, 61–63.
111. CTh 16.5.29.
112. CTh 14.9.3.
113. Greenidge, *Infamia*, 1; Garnsey "Citizenship," 144.
114. John Matthews, *The Roman Empire of Ammianus* (Baltimore: The Johns Hopkins University Press, 1989), 13, argues that Ammianus was included in the expulsion.
115. Zosimus 5.9.1.

116. Zosimus 5.9.2.
117. Zosimus's Greek permits the possibility that Bargas fled willingly from Laodicea.
118. On the logic of Roman punishment, see Bauman, *Crime*, esp. 141–60; Harries, *Empire*, 135–52; Robinson, *Penal*, 179–97.
119. The significance of patronage on banishment will be discussed in the Chapter 7, parts II and III. On later Roman society, see generally Averil Cameron, *The Later Roman Empire A.D. 284–430* (Cambridge: Harvard University Press, 1993), 117–32; Garnsey and Humfress, *Evolution*, 83–106; Stephen Mitchell, *A History of Later Roman Empire AD 284–641* (Malden, MA: Blackwell, 2007), 329–65. Many detailed studies exist. Consult the *oeuvre* of Peter Brown, esp. his collected essays in *Society and the Holy in Late Antiquity* (Berkeley and Los Angeles: University of California Press, 1982); Ramsay MacMullen, “Cultural and Political Changes in the 4th and 5th Centuries AD,” *Historia* 52 (2003): 465–95; and the essays collected in Scott McGill, Cristiana Sogno, Edward Watts, ed., *From the Tetrarchs to the Theodosians: Later Roman History and Culture, 284–450 CE*, Yale Classical Studies 34 (Cambridge: Cambridge University Press, 2010).
120. On cities in the Roman Empire (mainly focusing on earlier periods), see MacMullen, *Enemies*, 163–91; penetrating remarks on later Roman emperors and disorder in H. A. Drake, “Intolerance, Religious Violence, and Political Legitimacy in Late Antiquity,” *Journal of the American Academy of Religion* 79, no. 1 (March 2011): 193–235, at 210–211.
121. Ammianus 15.7.1–2.
122. Ammianus 15.7.3–5. On this episode, see Erich Auerbach, *Mimesis: The Representation Of Reality In Western Literature* trans. Willard Trask (Princeton: Princeton University Press, 1974), esp. 52–56; John Matthews, “Peter Valvomeres, Re-arrested,” in *Homo Viator*, ed. Michael Whitby, Philip Hardie, Mary Whitby, 277–84 (Bristol: Bristol Classical Press, 1987).
123. The legal justification for these banishments is obscure. Ammianus says of the first batch that Leontius *insulari poena multavit* (literally, “punished [or ‘sentenced’] them with the penalty to an island”) and that Peter *ad Picenum eiceretur* (literally, “was driven out to Picenum”). The speed of the entire vignette implies that Leontius employed *coercitio* throughout: there is no mention of a trial or formal sentence, nor time for one. Yet transporting the rebels to islands would have been an extreme exercise of *coercitio*. It is quite possible that Ammianus compressed events for dramatic effect, combining an initial use of *coercitio* with a subsequent sentencing to some form of *exilium*.
124. See Neil McLynn, *Ambrose of Milan: Church and Court in a Christian Capital* (Berkeley: University of California Press, 1994), 181–96.
125. Ambrose, *Ep.* 76.9. Of the various numbering systems of Ambrose's letters, I follow that of CSEL.
126. Ambrose, *Ep.* 76.10.
127. McLynn, *Ambrose*, 191.
128. Harries, *Empire*, 97. See, for instance, CTh 1.5.9.
129. See Chapter 6, part I.
130. CJ 11.55.2. The law also promises the same punishment for any rustic who enables the process. On Probus, see Ammianus 27.11.1, PLRE I: Sex. Claudius Petronius Probus 5; Michele Salzman, “Competing Claims to ‘Nobilitas’ in the Western Empire of the Fourth and Fifth Centuries,” *J ECS* 9, no. 3 (Fall 2001): 359–385, at 364–65.
131. CTh 10.11.1. The law specifies both property confiscation and *deportatio*. See David Johnston, *The Roman Law of Trusts* (Oxford: Oxford University Press, 1988), 68–69.
132. CJ 9.39.2.

133. John Chrysostom, *Homily on St. Babylas, Against Julian and the Pagans* 100/XIX, trans. Lieu.
134. Other Greek authors also used the words for “banisher” (φυγαδευτής) and “banishing” (φυγαδευτικός) as a designation of might and superiority; see *Apostolic Constitutions* 8.29 (in which oil sanctified in the name of Christ makes the anointed capable of banishing demons); Philostorgius 2.8 (in which Agapetus is said to be a banisher of maladies).
135. Lactantius, *On the Deaths of the Persecutors* 22.2, trans. Creed.
136. On the dating of this document, see J. L. Creed, *Lactantius: De Mortibus Persecutorum* (Oxford: Clarendon Press, 1984), xxxiii-xxxv.
137. Ammianus 16.5.12.
138. Augustine, *Ep.* 185.26. See also his assertion, *Answer to Faustus, a Manichaean* 5.8, that Faustus’s *relegatio* was the lightest of punishments, if it even could be called a punishment.

NOTES TO CHAPTER 2

1. The questions faced by fourth- and fifth-century Christians have engendered lengthy scholarly treatment. For an overview of the theological dilemmas faced (primarily in the East), see Frances Young, *From Nicaea to Chalcedon: A Guide to the Literature and Its Background* (Philadelphia: Fortress Press, 1983). On the Trinitarian controversy, see R. P. C. Hanson, *The Search for the Christian Doctrine of God: The Arian Controversy 318–381* (Edinburgh: T & T Clark, 1988); Lewis Ayres, *Nicaea and Its Legacy: An Approach to Fourth-Century Trinitarian Theology* (Oxford: Oxford University Press, 2006). On the Christological controversy, see John McGuckin, *St. Cyril of Alexandria: The Christological Controversy: Its History, Theology, and Texts*, Supplements to Vigiliae Christianae 23 (Leiden: E. J. Brill, 1994). W. H. C. Frend, *The Donatist Church: A Movement of Protest in Roman North Africa* (Oxford: Clarendon Press, 1952, 1971, and 1985) remains the standard for the Donatist schism. On the Pelagian controversy, see Robert Evans, *Pelagius: Inquiries and Reappraisals* (New York: Seabury, 1968); Brinley Rees, *Pelagius: Life and Letters* (Woodbridge: Boydell, 1998). On the social significance of the bishop, unrivaled is Claudia Rapp, *Holy Bishops in Late Antiquity* (Berkeley and Los Angeles: University of California Press, 2005).
2. Arius: Socrates 1.8.33; see also Timothy Barnes, “The Exile and Recall of Arius,” *JThS* 60, no. 1 (April 2009): 109–29, esp. 111–14. Nestorius: Evagrius 1.7. Pelagius: PL 45:1726–27 (=C-N 2:581–86). Donatist leaders: CTh 16.5.52. Athanasius: not all of the events in his life traditionally called “exile” are instances of banishment, but for instance on his “first exile” see Athanasius, *Defense against the Arians* 9. The notion of “heresy” was not a static one. What comprised “heresy” under one emperor could constitute “orthodoxy” under the next. Thus, the point in this chapter is not that those who eventually established their views as orthodox also instituted their political imagination. It is rather that most or even all theological camps increasingly held the outlook that their view (whatever that view happened to be) was the normative one and that the alternatives necessitated ejection.
3. Fournier, “Victor,” 47–51.
4. On the nature of disputation itself in this period, see Richard Lim, *Public Disputation, Power, and Social Order in Late Antiquity* (Berkeley and Los Angeles: University of California Press, 1995).

5. At a minimum, banishment was occasionally threatened against any adherents of a certain outlook without regard to their clerical or lay status; see for instance PL 45:1727–28 (=C-N 2:585–86) on adherents of Pelagianism.
6. See Greenidge, *Infamia*, 144–51; Harries, *Empire*, 142; Harries, *Crime*, 6. Humfress, *Orthodoxy*, 243–55, shows that accusations of heresy in this period amount to far more than name-calling; they express a more thorough-going attempt to debase the social, and therefore legal, position of the “heretic.”
7. E.g. Garnsey and Humfress, *Evolution*, 144: “It was this tradition [of exiling astrologers, soothsayers, devotees of Bacchus and Isis, philosophers, and Jews] which provided the necessary theoretical, legal and social justifications for the post-Constantinian exile of Christian bishops, clerics, ascetics and monks whom the authorities judged as a similar threat to civic peace and stability.”
8. See in general J. P. V. D. Balsdon, *Romans and Aliens* (Chapel Hill: University of North Carolina Press, 1979), 97–115; David Noy, *Foreigners at Rome: Citizens and Strangers* (London: Duckworth, 2000), 37–47.
9. Josephus, *Antiquities* 18.81–84: a con pulled by a few Jews on the matron Fulvia; Tacitus, *Annals* 2.85.4–5: superstition; Suetonius, *Tiberius* 36.1: foreign religion and superstition; Cassius Dio 57.18.5.a: Jewish proselytizing.
10. Margaret Williams, “The Expulsion of Jews from Rome in AD 19” *Latomus* 48 (1989): 765–84, believes that the Jews were banished for disturbing the peace; Leonard Victor Rutgers, “Roman Policy toward the Jews: Expulsions from the City of Rome during the First Century C.E.” in *Judaism and Christianity in First-Century Rome*, ed. Karl P. Donfried and Peter Richardson, 93–116 (Grand Rapids: William B. Eerdmans Publishing Company, 1998) argues that this explanation still does not explain how expelling the Jews would have restored order.
11. See Rutgers, “Policy,” 104.
12. On *superstitio*, see Michele Salzman, “*Superstitio* in the Codex Theodosianus and the Persecution of Pagans,” *Vigiliae Christianae* 41 (1987): 172–188; Dale Martin, *Inventing Superstition: From the Hippocratics to the Christians* (Cambridge: Harvard University Press, 2004), 125–39.
13. MacMullen, *Enemies*, 128–62, esp. 128.
14. For the collected evidence, see Cramer, *Astrology*, 233–48, who notes its unsatisfactory nature at 233, 240, and 247.
15. Valerius Maximus, *Memorable Deeds and Sayings*, preserved by Julius Paris and Januaris Nepotianus. See D. Wardle’s introduction in his translation of and commentary on this work: *Valerius Maximus*, *Memorable Deeds and Sayings*, *Book I* (Oxford: Clarendon Press, 1998), 18–20.
16. Valerius Maximus, *Memorable Deeds*, 1.3.3. See Cramer, *Astrology*, 235, but note also discussion in Wardle, *Valerius Maximus*, 148–49 and MacMullen, *Enemies*, 325n2. On Laelius’s bill, see A. E. Astin, *Scipio Aemilianus* (Oxford: Clarendon Press, 1967), 307–310.
17. Cramer, *Astrology*, 232–48; MacMullen, *Enemies*, 130–33.
18. One: Ulpian, *De officio proconsulis* 7 (=Mosaicarum et romanarum legum collatio 15.2.1); multiple: Tacitus, *Annals*, 2.32; Cassius Dio 57.15.8–9. Suetonius, *Tiberius*, 36, does not comment either way. See discussion in Cramer, *Astrology*, 237–40. The sources also betray small discrepancies on the groups targeted. Tacitus states that the ban affected *mathematici* (astrologers) and *magi* (sorcerers); Suetonius, *mathematici*; Ulpian, *mathematici*, *Chaldaei* (Chaldeans), *arioli* (soothsayers), and others; Cassius Dio, ἀστρολόγοι (astrologers) and γόητες (sorcerers).

19. On Pituanus and Marcius, see Matthew Dickie, *Magic and Magicians in the Greco-Roman World* (London: Routledge, 2001), 199–200.
20. Tacitus, *Annals* 6.20–21 Suetonius, *Tiberius* 14. See Dickie, *Magic*, 195–96; Tamsyn Barton, *Ancient Astrology* (London: Routledge, 1994), 43–44.
21. On the Roman *haruspices*, see Mary Beard, John North, and Simon Price, *Religions of Rome* (Cambridge: Cambridge University Press, 1998), 1:101–102.
22. Cassius Dio 56.25.5. See Cramer, *Astrology*, 248–51.
23. Robinson, *Practice*, 102.
24. Noted by Rutgers, “Policy,” 108–110.
25. Scholars resist the notion that pre-Christian Rome was simply more tolerant than Christian Rome. See Peter Garnsey, “Religious Toleration in Classical Antiquity” in *Persecution and Toleration*, Studies in Church History 21, ed. W. J. Sheils, 1–27, esp. 6–12, 24–27 (Oxford: Blackwell, 1984); Rutgers, “Policy,” 111–16; Drake, “Intolerance.”
26. Tacitus, *Annals* 2.85 indicates that in the expulsion of the year 19, a *senatus consultum* ordered the Jews to leave Italy unless by a certain day they laid aside their *profani ritus* (unholy observances). Scholars, such as Rutgers, “Policy,” 107–108, doubt that this clause means that the Jews’ initial offense was one of religion. However, even if Tacitus has misreported the affair, it is striking that he could conceive of the Senate proceeding this way, which means that Tacitus could imagine the threat of ejection used in order to force something of a religious change. In a somewhat similar fashion, Suetonius, *Tiberius* (36) states that when Tiberius ordered the astrologers expelled, in response to supplications on their behalf, he offered pardon to those who promised to give up their craft. In the case of Tiberius and the astrologers, however, the initial order does not seem designed to elicit the astrologers’ conversion.
27. Caroline Humfress, “Roman Law, Forensic Argument and the Formation of Christian Orthodoxy (III–VI Centuries) in *Orthodoxie, christianisme, histoire = Orthodoxy, Christianity, History*, Collection de l’École Française de Rome 270, ed. Susana Elm, Eric Rebillard, Antonella Romano, 125–47, at 131 (Rome: École Française de Rome, 2000).
28. Rufinus, *HE* 10.22, trans. Amidon.
29. Leo, *Ep.* 93.3. Of the various numbering systems for Leo’s letters, I follow that of the PL; for a concordance of those systems, see Mary Magdeleine Mueller, *The Vocabulary of Pope St. Leo the Great* (Washington, D.C.: Catholic University of America Press, 1943), xvii–xviii.
30. For example, when the Homoian bishops met at Nice in Thrace in 359, others became plausibly suspicious that they chose this location because of its verbal similarity to “Nicaea.” Thus these bishops could claim to uphold a “Nicene” creed. See Socrates 2.37.95–97; Sozomen 4.19.7–8. Also, the many councils of Sirmium generated befuddlement. The ancient sources grew confused about which one was which; see Barnes, *Athanasius*, 231–32.
31. Laurette Barnard, “The Criminalisation of Heresy in the Later Roman Empire: A Sociopolitical Device?” *The Journal of Legal History*, 16, no. 2 (2007): 121–46, at 125, 128–9, and 137.
32. Barnard, “Criminalisation,” 137–38.
33. See [Chapter 1](#), part IV.
34. On Constantine and religion, general studies include Norman Baynes, *Constantine the Great and the Christian Church* (London, Oxford University Press for the British Academy, 1972); Timothy Barnes, *Constantine and Eusebius* (Cambridge: Harvard University Press, 1981); Drake, *Constantine*; see further Scott Bradbury, “Constantine and the Problem of Anti-Pagan Legislation in the Fourth Century,” *Classical Philology* 89 (1994): 120–39;

- John Curran, "Constantine and the Ancient Cults of Rome: The Legal Evidence," *Greece & Rome*, 2nd ser., 43, no. 1 (Apr., 1996): 68–80; Anthony Birley, "The Vision of Constantine," *Journal of Roman Archaeology* 16 (2003): 237–59.
35. Gelasius, *HE* 3 Appendix 1 (=Opitz 3.2: Urkunde 27; C-N 1:135–41).
 36. Theodotus appears in the role of Nicaea's signatories, although the spelling of his name varies; see Cuthbert Turner, *Ecclesiae Occidentalis Monumenta Iuris Antiquissima: Canonum et Conciliorum Graecorum Interpretationes Latinae* (Oxford: E Typographeo Clarendoniano, 1899), 1.1 pp. 48–49 #53.
 37. Gelasius, *HE* 3 Appendix 2 (=Opitz 3.2: Urkunde 28; C-N 1:142), trans. C-N.
 38. Socrates 1.25.7–8.
 39. Socrates 1.26.6.
 40. Athanasius, *History of the Arians*, 40.2.
 41. Theodosius I's accession to the purple in 379 marks the beginning of this period; it ended in the West in the year 455 with the death of Valentinian III, Theodosius's grandson. Its conclusion in the East depends on how one reckons the dynasty, terminating either in the year 450 with the death of Theodosius II (also a grandson of the first Theodosius), in the year 453 with the death of his sister Pulcheria, or in the year 457, on the death of Marcian, who succeeded Theodosius II and married Pulcheria.
 42. CTh 16.4.3. On the *praefectus augustalis*, see Jones, *Empire*, 1:141.
 43. Laws from the court of Arcadius: CTh 16.5.29, 16.5.30, 16.5.31, 16.5.32, 16.5.33, 16.5.34, 16.5.36; from that of Honorius: CTh 16.5.40, 16.5.45, 16.5.46 (=Sirm 4), 16.5.52.5, 16.5.53, 16.5.54, 16.5.54. See also CTh 16.5.41 on Honorius's court's belief that the promise of punishment (not limited to banishment) could bring about adequate repentance.
 44. Sirm 6.
 45. PLRE II: Irenaeus 2. For an excellent overview, see Yvan Azéma, *Théodoret de Cyr: Correspondance IV*, SC 429 (Paris: Editions du Cerf, 1998), 50–52 and the much-needed elucidations of Fergus Millar, *A Greek Roman Empire* (University of California Press: Berkeley and Los Angeles, 2006), 168–91, 235–47, esp. 238–39 #15.
 46. ACO 1.4.2 p. 168–69, sections 230–31 (=C-N 2:690–91). Some obscurity surrounds Dionysius's title. See PLRE II: Fl. Dionysius 13. In this case, the *vicarius* Titus would be a subordinate attached to the military officer, the *magister utriusque militiae*, not the praetorian prefect. On this type of vicar, see Jones, *Empire*, 1:609. For an overview of the council and the theological problem addressed, see J. N. D. Kelly, *Early Christian Doctrines* (San Francisco: HarperSanFrancisco, 1978), 280–343. See also McGuckin, *Cyril*.
 47. ACO 1.4.2 p. 192, section 262 and pp. 198–99 section 269 (=C-N 2:692–93, 695).
 48. ACO 1.4.2 p. 199, section 270 (=C-N 2:696). The tone of the letter is obsequious, though it makes little effort to disguise its threats. Dionysius and Titus failed to change Alexander's mind; see ACO 1.4.2 p. 200, section 272 (=C-N 2:697–98).
 49. *Latrocinium*: See Leo, *Ep.* 95.2. On Flavian, see Henry Chadwick, "The Exile and Death of Flavian of Constantinople: A Prologue to the Council of Chalcedon," *JThS* 6, no. 1 (April 1955): 17–34.
 50. ACO 2.1.2 p. 75, section 54 (=ACC 1:140–41).
 51. Leo, *Ep.* 84.3.
 52. ACO 2.1.2 pp. 83–84, sections 40, 43 (=ACC 2:28, see arguments at 2: viii, 1–2, for regarding this as Chalcedon's second session, not its third). Dioscorus did end up in banishment: see Evagrius 5.2.

53. Captured perfectly in Drake, "Intolerance," 209–17.
54. See Peter Brown, *Augustine of Hippo: A Biography* (Berkeley: University of California Press, 1967), 360–62; C-N 2: 581–86, 606–608.
55. Robinson, *Penal*, 133.
56. David Johnston, "The Jurists," in *The Cambridge History of Greek and Roman Thought*, ed. C. J. Rowe, 616–34, at 628 (Cambridge: Cambridge University Press, 2000).
57. CTh 16.5.42.1.
58. CTh 16.5.42.5.
59. Ruggero Maceratini, *Ricerche sullo status giuridico dell'eretico nel diritto romano-cristiano e nel diritto canonico classico (da Graziano ad Ugucione)* (Padova: CEDAM, 1994), 74 stretches the evidence in equating heresy with *maiestas* (albeit *lesa maestà divina*). CTh 16.5.40 (a constitution he cites as support) reads more easily as a comparison between heresy and *maiestas*; it is also a law that the East expressed misgivings over (see CTh 16.5.48). Moreover, a detailed examination of the ways that later Roman authorities prosecuted the two yields essential contrasts; see the painstaking examination of Barnard, "Criminalisation."
60. See Humfress, "Formation," esp. 128–131; Caroline Humfress, *Orthodoxy and the Courts in Late Antiquity* (Oxford: Oxford University Press, 2007), esp. 233–42.
61. See the discussion of banished clerics in [Chapter 6](#), part II.
62. *Collectio Avellana* #5 (=CSEL 35.1:48; C-N 1:312). In addition to the instances introduced here, see also Noel Lenski, *Failure of Empire: Valens and the Roman State in the Fourth Century A.D.* (Berkeley: University of California Press, 2002), 257 and McLynn, *Ambrose*, 123.
63. PL 45:1726–27 (=C-N 2:581–85). See also CTh 16.4.3, 16.5.21, 16.5.36, 16.5.40, 16.6.6 on cases of *deportatio* for sectarians who might have been either clerical or lay.
64. CTh 16.5.58. Honoré, *Law*, 102–106, 276, identifies this law's Quaestor as Eustathius junior (E20), a Christian lawyer with high literary style.
65. *Propello*: CTh 16.5.6.3; *pello*: CTh 16.5.11, 16.5.18.pr., 16.5.20, 16.5.30.1; *arceo*: CTh 16.5.29; *extermino*: CTh 16.5.64.
66. By way of contrast, CTh 16.5.31 and 32, a law from Honorius to the praetorian prefect, demands that the leaders of the Eunomians be *pellantur extorres* ("expelled as the banished"), which would seem to indicate an enhanced level of expulsion for the party leadership.
67. MacMullen, *Enemies*, 131.
68. See Ferdinando Zuccotti, "*Furor haereticorum*": *Studi sul trattamento giuridico della follia e sulla persecuzione della eterodossia religiosa nella legislazione del tardo Impero Romano* (Milan: Guiffrè, 1992), 156–78.
69. A very distant and improbable antecedent for purity through exile in pre-Christian Roman law lies with the *aquae et ignis interdictio*. In the nineteenth century, William Smith, William Wayte, and G. E. Marindin, the editors of the *Dictionary of Greek and Roman Antiquities*, 3rd ed. (London: John Murray, 1890), s.v. "Exsilium, 2. Roman," following Rudolf von Ihering, *Geist des römischen Rechts auf den verschiedenen Stufen seiner Entwicklung* (Leipzig, 1875–78), 1:288, contended that fire and water were denied to an exile because of their symbolic purity, which the *interdictus* would defile. This interpretation seems poorly supported by the evidence, and modern scholarship is inclined to see fire and water as tokens, not of purity, but of life sustenance; see Kelly, *History*, 26. I doubt that the purity-based interpretation of *interdictio* is correct. However, even if it is, it is unlikely to have had any bearing on fourth- and fifth-century Christian conceptions of

banishment, which work in many ways opposite to how interdiction operated (according to this theory). That view holds that the exiled person was liable to contaminate Rome with his presence and therefore a religious injunction took hold in order to ban him; the later Empire viewed heretics as a contaminating presence because of their religious outlook (not their status as exiles), which was solved by locative change.

70. For instance, the interpretation of the order sending Nestorius to Petra (=Mansi 5:256 [=C-N 2:706]), makes an explicit connection between improper piety, banishment, and civic prosperity. In general, see David Hunt, "Christianising the Roman Empire: The Evidence of the Code" in *Code*, ed. Harries and Wood, 143–58, at 148; Salzman, "Superstitio."
71. It is possible that the jurist Modestinus (D 48.19.30) offers evidence of an intermediate stage. He cites a rescript of Marcus Aurelius (ruled 161–180) stipulating *relegatio* for anyone who does something, "by which the fickle souls of men are terrified by *superstitio* of the divine will"; see MacMullen, *Enemies*, 130. Robinson, *Criminal*, 93, takes this as directed against a soothsayer. In this rescript, an error relating to the *numen* has a polluting or corrosive effect on the world around it, though at this stage merely the mental world. With such meager evidence, it is difficult to offer more than a conjectural possibility, particularly as the extract has been redacted much later by Christian scribes. However, if the second-century rescript does represent a developing conviction that religious error pollutes, then it would imply that the Christian developments in the later Empire enhanced, and added an additional component to, an existing trend.
72. Jan Bremmer, *Greek Religion* (Oxford: Oxford University Press, 1994), 9n26. For instance, though Pliny, *Ep.* 10.96 says that the contagion of the superstition has spread (*superstitionis istius contagio*), Joseph Walsh, "On Christian Atheism," *Vigiliae Christianae*, 45, no. 3 (September 1991), 255–277, at 259, observes that his term *contagio* was not a particularly religious one.
73. Robin Lane Fox, *Pagans and Christians* (New York: Alfred A Knopf, 1987), 83.
74. See Robert Parker, *Miasma: Pollution and Purification in Early Greek Religion* (Oxford: Clarendon Press, 1983), esp. 4, 19, 22–23.
75. Richard Gordon, "Religion" in *The Edinburgh Companion to Ancient Greece and Rome*, ed. Edward Bispham, Thomas Harrison, and Brian Sparkes, 21–24, at 23 (Edinburgh: Edinburgh University Press, 2006).
76. See Samuel Lieu, *Manichaeism in the Later Roman Empire and Medieval China*, 2nd ed. (Tübingen: Mohr, 1992), 121–25.
77. *Collatio Legum Mosaicarum et Romanarum* 15.3.1–8, at 4. There is some textual confusion over the beast in question; see Lieu, *Manichaeism*, 122n4. Eusebius, *HE* 7.31.2 picks up the comparison with similar images; see Peter Brown, "The Diffusion of Manichaeism in the Roman Empire," *JRS* 59, no. 1 (1969): 92–103, at 98.
78. On Diocletian's persecution, see the useful introduction in Roger Rees, *Diocletian and the Tetrarchy* (Edinburgh: Edinburgh University Press, 2004), 58–71; discussion in Stephen Williams, *Diocletian and the Roman Recovery* (New York: Methuen, Inc., 1985), 173–85.
79. See C-N 1:24–27. The Latin rescript is known almost entirely through Eusebius's translation of it into Greek. There is also a difficulty of direction. The pronouncement seems to be the emperor's response to local initiative, which would mean that the law derived from below. However, as observed in C-N 1:26n1, Lactantius, *On the Deaths of the Persecutors* 36.3 and Eusebius, *HE* 9.2.2 also indicate that Maximinus Daia solicited anti-Christian proposals

from the cities, which would indicate that the impetus for the law actually came from above but created the illusion of having come from below.

80. Eusebius, *HE* 9.7.12.
81. On the segregations involved in Greek rules of purity and pollution, see Parker, *Miasma*, esp. 18–31.
82. The prior history of Greek religion suggests various times when an allegation that someone had violated the rules governing a sacred landscape served as a convenient way to justify taking action against the “offender.” See Parker, *Miasma*, 165–66.
83. See p. 174n3.
84. For instance, respect for bishops as the new elite class of late antiquity does not address the banishment of non-bishops (be they laity or lower clergy). Nor does it fully account for the banishing of bishops who had been deposed and thereby deprived of their episcopal rank (that is, their version of notable status).
85. Roman sources divulge little of their penology: Robinson, *Penal*, 179.
86. Gelasius, *HE* 3 Appendix 2 (=Opitz 3.2: Urkunde 28; C-N 1:142), trans. C-N.
87. On the authenticity of Constantine’s anti-pagan legislation, see A. H. M. Jones and T. C. Skeat, “Notes on the Genuineness of the Constantinian Documents in Eusebius’s Life of Constantine and Appendix,” *Journal of Ecclesiastical History* 5, no. 4 (October 1954): 196–200; Scott Bradbury, “Constantine and the Problem of Anti-Pagan Legislation in the Fourth Century,” *Classical Philology* 89, no. 2 (April 1994): 120–39.
88. On the timing of the letter, see Stuart Hall, “The Sects under Constantine” in *Voluntary Religion: Papers Read at the 1985 Summer Meeting and the 1986 Winter Meeting of the Ecclesiastical History Society*, ed. W. J. Shields and Diana Wood, 1–13 (Oxford: Blackwell, 1986), and further discussion in Averil Cameron and Stuart Hall, trans., *Eusebius: Life of Constantine* (Oxford: Clarendon Press, 1999), 306–307.
89. Eusebius, *Life of Constantine* 65.1–3.
90. Eusebius, *Life of Constantine* 64.2–4, trans. Cameron and Hall.
91. On Priscillian, see Chadwick, *Priscillian*; Burrus, *Heretic*.
92. Priscillian, *Tractate* 2, lines 141–49.
93. Sulpicius Severus, *Chronicle* 2.47.6. Chadwick, *Priscillian*, 35–36, remarks that this is “a formula almost more reminiscent of a ritual curse than a legal definition”; see Burrus, *Heretic*, 54–55 and 190–91n36 on reconstructing the process that led to this order, also McLynn, *Ambrose*, 149–51.
94. As Burrus, *Heretic*, 190n33 notes, CTh 16.5.19 is a law from the year 389, promulgated between the time of the Priscillian affair and Severus’s writing, and one that approaches the same topic (repression of Manichaeans) with strikingly similar language. Its existence at a minimum indicates that the worldview which Severus imputes to Gratian’s law existed prior to (or, at the very least, at) Severus’s own time.
95. At nearly the same time that Severus was writing, the western imperial court issued a law that imputed a vaguely similar decree to Gratian. CTh 16.2.31 stipulated that a deposed bishop must not seek to reclaim his priesthood, and that if he does, he ought to be sent one hundred miles away from his city. This constitution states that the original policy was set by Gratian, though Gratian’s law, if it ever existed, has not come down to us. There does not seem to be justification for correlating the law described by Severus on pseudo-bishops and Manichaeans with the one imagined in the Code on deposed bishops: Chadwick, *Priscillian*, 36n1.
96. Béatrice Caseau, “Sacred Landscapes,” in *Late Antiquity*, ed. Bowersock, Brown, and Grabar, 21–59, at 28–29.

97. CTh 16.7.3, 16.5.44, 3.1.5, 16.9.5.
98. See McLynn, *Ambrose*, 124.
99. CTh 16.5.6.pr.
100. CTh 16.5.6.1.
101. CTh 16.5.6.3.
102. See also CTh 16.5.14.
103. CTh 16.5.20. An interesting exception to this trend took place in June of 391. In CTh 16.7.4, the court of Theodosius determined that apostates should lose the right to make a will but—even though banishment might seem like the logical choice—they were not to be ejected on the grounds that remaining in society would itself be a severe punishment. On both CTh 16.5.20 and 16.7.4, see Robert Errington, *Roman Imperial Policy from Julian to Theodosius* (Chapel Hill: University of North Carolina Press, 2006), 243–45.
104. See Frend, *Donatist*, 275–89.
105. CTh 16.5.52.5.
106. The fragments occur in CTh 16.2.47, 16.5.62, 16.5.64, and Sirm 6.
107. CTh 16.5.62.
108. Sirm 6.
109. Laws exiling Pelagius, Caelestius, and their followers indicate that they must be separated from society, but do not explicitly invoke concepts of purity and contagion. See C-N 2: 581–86.
110. Richard Lim, “Christian Triumph and Controversy,” in *Late Antiquity*, ed. Bowersock, Brown, and Grabar, 196–218, at 209.
111. Epiphanius, *Panarion* Pr.2, trans. Amidon.
112. Tertullian, *Prescription against Heretics* 1.
113. Tertullian, *Prescription against Heretics* 6.
114. E.g. Tertullian, *Prescription against Heretics* 30 describes Marcion’s teaching as a type of venom. That heresy derives from Greek philosophy is the main tenant of Hippolytus, *Refutation of All Heresies*.
115. Cerinthus’s own thoughts have been lost to history. Early heresiologists attribute to him the heresies of Judaizing and Gnosticism. For a useful survey of evidence and scholarship on Cerinthus, see Dominic J. Unger and John J. Dillon, *St. Irenaeus of Lyons Against the Heresies* (New York, N.Y./Mahway, N.J.: Paulist Press, 1992), 243–44n1.
116. Irenaeus, *Against Heresies* 3.3.4. The story is repeated in the fourth century by Eusebius, *HE* 3.28.6, who fails to perceive the changed worldview. In general, Eusebius’s project in writing his history is to smooth over differences between his present and the Christian past by stressing (or inventing) continuity: see Robert Markus, *The End of Ancient Christianity* (Cambridge: Cambridge University Press, 1990), 90–92.
117. *First Clement* introduction.
118. Walter Bauer, *A Greek-English Lexicon of the New Testament and Other Early Christian Literature*, trans. and adapted by William Arndt and F. Wilbur Gingrich, 2nd ed. (Chicago: University of Chicago Press, 1958), s.v. παροικέω.
119. A comparison between Jerome, *Ep.* 75.3 (fourth century) and Irenaeus, *Against Heresies* 1.13.7 illuminates the later stress on pollution. According to Jerome, Irenaeus indicates that a Gnostic named Mark polluted the regions around the Rhone and Garonne (southern Gaul) with his teachings. Irenaeus does not mention contamination, but Jerome could not help but perceive the language and logic of pollution in a discussion of heresy. For other ways that Jerome goes beyond Irenaeus on this subject, see Burrus, *Heretic*, 131.
120. Titus 3:10 instructs that those of divisive teachings (perhaps early strains of Gnosticism) should be warned twice and then shunned.

121. Tertullian, *Prescription against Heretics* 30.
122. The affair surrounding Paul of Samosata does invalidate this claim. Briefly, Paul was deposed from his see in Antioch in the middle of the third century, but refused to surrender the church. The clergy appealed to the emperor Aurelian, who decided in favor of those recognized by the Italian churches as the rightful owners. See Eusebius, *HE* 7.29–30. In this instance, the imperial decision concerned only property ownership, not residence or rightful leadership. See discussion in Fournier, “Victor,” 41–46.
123. On the advent of Christian topography, see Robert Markus, “How on Earth Could Places Become Holy? Origins of the Christian Idea of Holy Places,” *J ECS* 2, no. 3 (Fall 1994): 257–71; Caseau, “Sacred Landscapes,” 21–59, esp. 37–45.
124. This is the shadow side to the holy object/holy man discussion initiated by Peter Brown, “The Rise and Function of the Holy Man in Late Antiquity,” reprinted in his *Society*, 103–52.
125. On exilic locations, see Chapter 6, part III. Zuccotti, *Furor*, 193, refers to the imperial measures taken against religious deviation as “the exorcism of the cosmos”—a delightful phrase, but one that should not obscure the fact that banishment kept sectarians in the Roman sphere of influence.
126. The literatures analyzing the genesis of Byzantine and medieval European societies are beyond citation, but see Geoffrey Barraclough, *The Crucible of Europe: The Ninth and Tenth Centuries in European History* (Berkeley: University of California Press, 1976); Markus, *End*; Mark Whittow, *The Making of Orthodox Byzantium* (Basingstoke: Macmillan, 1996); Peter Brown, *The Rise of Western Christendom: Triumph and Diversity, A.D. 200–1000*, 2nd ed. (Malden: Blackwell, 2006).
127. Maceratini, *Richere*, 33–34
128. See Michael Gaddis, *There is No Crime for Those Who Have Christ: Religious Violence in the Christian Roman Empire* (Berkeley and Los Angeles: University of California Press, 2005), 68–102; Fournier, “Victor,” 11–12.

NOTES TO CHAPTER 3

1. Kelly, *History*, 161–219 provides an invaluable prosopography of those exiled in Republican Rome and the statutes or procedures that condemned them.
2. On the transition from *quaestio* to *cognitio*, see Harries, *Crime*, 12–42. See also Evans Grubbs, *Law*, 205n11 on the cessation of the *quaestiones*.
3. Jones, *Empire*, 1:484–94, Harries, *Empire*, 106.
4. Alan Watson, *The Law of the Ancient Romans* (Dallas: Methodist University Press, 1970), 29. See also Robinson, *Law*, 9–11.
5. CTh 9.40.17; NMaj 9.1. See pp. 27, 29–30.
6. In general, the powers behind the throne had considerable influence under Arcadius. See Cameron, Long, and Sherry, *Barbarians*, 3–9.
7. For the case of Ambrosius, it is true that when the governor Rogatianus became aware of the fact that Ambrosius had fled from his site of relegation, he referred the case to Majorian. However, the emperor’s decision to deport (nominally) the offender appears to be the result of the new offense, unlawful departure from *relegatio*, not the original crime, *adulterium*.
8. Millar, *Emperor*, 507–27.
9. Lactantius, *On the Deaths of the Persecutors* 39.4, 41.1; see p. 31.
10. Ammianus 16.5.12; see p. 39.
11. Ammianus 14.5.1.

12. Ammianus 14.5.3.
13. Athanasius: Socrates 1.35.3; Sozomen 2.28.14; see Barnes, *Athanasius*, 24. Eusebius of Nicomedia and Theognis of Nicaea: Gelasius, *HE* 3 Appendix 1 (=Opitz 3.2: Urkunde 27; C-N 1:135–41); Philostorgius 1.10, 2.7; Sozomen 1.21.3–4; see Hanson, *Search*, 173.
14. Barnes, *Constantine*, 226–27.
15. See further p. 89.
16. On delegation, see Robinson, *Law*, 10–11.
17. Jones, *Empire*, 1:376.
18. On the later Roman bureaucracy, see Jones, *Empire*, 1:366–410; Carney, *Bureaucracy*, 1:89–127; Christopher Kelly, *Ruling the Later Roman Empire* (Cambridge, Mass: Belknap Press of Harvard University Press, 2004).
19. See Christopher Kelly, “Emperors, Government and Bureaucracy” in *The Cambridge Ancient History: The Late Empire, A.D. 337–425*, ed. Averil Cameron and Peter Garnsey, 138–83, esp. 169–70 (Cambridge: Cambridge University Press, 1997).
20. PL 45: 1726–27 (=C-N 2:581–86).
21. In the judicial hierarchy, the *defensor civitatis* operated below the provincial governor. However, this position had jurisdiction in petty cases that would have had penalties almost certainly smaller than any form of banishment. See Jones, *Empire*, 479–80.
22. D 48.19.2.1.
23. D 48.22.7.17. Similarly, Callistratus, D 48.19.28.1, reflects the gubernatorial right to relegate when he comments on governors sending notification of this sentence to the emperor.
24. James Strachan-Davidson, *Problems of the Roman Criminal Law* (Oxford: Clarendon Press, 1912) 2: 58–59, 173; Garnsey, *Social*, 79–80, 121.
25. D 48.19.8.1. See also D 1.18.6.8 where this same jurist recognizes the governors’ “right of the sword” (*ius gladii*).
26. D 48.19.2.1.
27. See D 48.13.7, 48.13.8. On class and banishment, see [Chapter 5](#), section II; for Ulpian’s place in that discussion, see pp. 191–92n36.
28. Garnsey, *Social*, 94; Harries, *Crime*, 16–33.
29. Sootjes, *Governor*, 31.
30. D 1.18.13 on the governor seeking out blasphemers, robbers, hijackers, and thieves; see Harries, *Crime*, 22–29.
31. Harries, *Crime*, 30; Robinson, *Criminal*, 10–11.
32. See also Harries, *Crime*, 28.
33. CJ 9.12.6
34. There is an unmistakable tension between this law and Ulpian’s comment that governors could not deport. The law in itself, however, is not quite sufficient to disprove Ulpian’s claims. First, Constantine might have been confused about what sentences governors were in the practice of handing down. Second, the law instructs governors *not* to use relegation or deportation and therefore cannot be taken as proof of their holding the right to both.
35. Jones, *Empire*, 1: 106.
36. CTh 9.40.12. According to Zosimus 4.19.2, upon the death of Valentinian I in 375, the western Empire was divided with Gaul, Britain, and Spain falling to Gratian and Italy (including Campania), Illyricum, and North Africa to Valentinian II; thus a constitution directed to Campania would have been the fruit of Valentinian II’s administration.
37. Jerome, *Ep.* 1.3–7 describes the activities of a later *consularis* that substantially exceeded mere banishment. According to Jerome, this *consularis* brutally tortured a pair accused of adultery before sentencing the two to death.

- On this extraordinary letter, see Brent Shaw, "Body/Power/Identity: Passions of the Martyrs," *J ECS* 4, no. 3 (Fall 1996): 269–312, at 272–74; Virginia Burrus, *The Sex Lives of Saints: An Erotics of Ancient Hagiography* (Philadelphia: University of Pennsylvania Press, 2004): 53–56.
38. Carney, *Bureaucracy*, 1:91.
 39. Jones, *Empire*, 1: 374, 481.
 40. Constantine: CTh 9.8.1 in the West for chastity, 9.21.1 in the West for counterfeiting; Theodosius I: CTh 9.39.2 in the East for accusations; Honorius: CTh 9.26.3 in the West for repeated office holding.
 41. Jones, *Empire*, 1:370–72.
 42. Jones, *Empire*, 1:481, 505.
 43. Jones, *Empire*, 1:475.
 44. Jones, *Empire*, 1:372; Slootjes, *Governor*, 35.
 45. Marriage: CTh 3.10.1, 3.16.1, 3.16.2; astrology: CTh 9.16.12; Nile: CTh 9.32.1; port: CTh 13.5.34; religion: CTh 16.2.35, 16.2.40, 16.5.11, 16.5.12, 16.5.13, 16.5.14, 16.5.19, 16.5.21, 16.5.31, 16.5.32, 16.5.34, 16.5.36, 16.5.40, 16.5.45, 16.5.46, 16.5.52, 16.5.57, 16.5.58, 16.5.65, 16.6.4, 16.6.6, 16.8.26, 16.10.23, 16.10.24. In addition, see CTh 1.5.3, 3.5.5, 5.7.2, 6.30.16, 7.10.1, 7.18.8, 8.5.35, 9.23.1, 9.25.3, 9.26.1, 9.36.2, 9.38.10, 9.40.12, 9.40.17, 9.42.8, 9.42.20, 11.7.16, 11.14.3, 12.1.50, 12.1.92, 12.19.3, 13.5.34, 14.15.6, 15.8.2.
 46. CTh 9.3.6. PLRE I: Eutropius II.
 47. CTh 2.1.6. PLRE I: Flavius Neoterius.
 48. *Relegatio*: CTh 1.5.3, 3.5.5, 7.18.8, 8.5.35, 12.19.3, 16.5.58; *deportatio*: CTh 11.7.16, 11.14.3, 12.1.50, 12.1.92, 13.5.34, 14.15.6, 16.2.40, 16.5.21, 16.2.36.2, 16.5.46, 16.5.57, 16.5.58, 16.6.6.
 49. Philostorgius 9.8. PLRE I: Auxonius I.
 50. Philostorgius 9.8. There are difficulties with Philostorgius's report: the bishop Valens, Eunomius's patron, presided over the see of Mursa, which does not sit on any obvious route between Eunomius's home in Chalcedon and his destination in North Africa. It is possible that Eunomius encountered bishop Valens somewhere other than Mursa, though. The difficulty still remains that bishop Valens would have had to have obtained Eunomius's pardon with remarkable speed.
 51. Philostorgius 9.11; see Raymond Van Dam, *Becoming Christian: The Conversion of Roman Cappadocia* (Philadelphia: University of Pennsylvania Press, 2003), 34.
 52. Garnsey, *Social*, 91.
 53. Jones, *Empire*, 1: 687–89, 692; on the founding of Constantinople, see Richard Krauthheimer, *Three Christian Capitals: Topography and Politics* (Berkeley and Los Angeles: University of California Press), 1984, 41–68.
 54. CTh 16.5.18, 16.5.30, 16.5.40, 16.5.53, 16.5.62.
 55. PL 45:1750 (=C-N 2: 615).
 56. PL 45:1751 (=C-N 2: 616).
 57. Forgery: CTh 9.19.2; desecration: CTh 9.17.1. See also CTh 9.16.1, 14.8.3, 14.10.1, 14.10.3.
 58. Ammianus 15.7.5.
 59. Ammianus 14.9.1–8.
 60. Ammianus 14.9.1.
 61. CTh 16.5.29.
 62. CTh 10.24.2. See PLRE I: Palladius 12.
 63. Jones, *Empire*, 1: 484.
 64. Ammianus 19.12.5.
 65. D 48.22.5.

66. Ammianus 19.12.9–10; Marcian: D 48.22.5. Timothy Barnes, *Ammianus Marcellinus and the Representation of Historical Reality* (Ithaca: Cornell University Press, 1998), 91–92, understands Paul's role as the one who searched out traitors and Modestus as their judge. Such an arrangement has the virtue of administrative logic, but it is not how Ammianus describes it. The count of the Orient held a position similar to, but higher ranking than, a normal vicar: see Jones, *Empire*, 1:105.
67. Glen Bowersock, *Julian the Apostate* (Cambridge: Harvard University Press, 1978), 66–70.
68. Ammianus, 22.3.3–7: banished were the former Chief Marshal of Court, Palladius; the former praetorian prefect, Taurus; the master of offices, Florentius; the count of the privy purse, Evagrius; the former Steward of the Household, Saturninus; and the former secretary, Cyrinus.
69. Robert Browning, *The Emperor Julian* (London: Weidenfeld and Nicolson, 1975), 125.
70. See Robinson, *Criminal*, 7–8, 12.
71. Ammianus 28.1.17–23. PLRE I: Iulius Festus Hymetius, Frontinus 3.
72. See Cristiana Sogno, *Q. Aurelius Symmachus: A Political Biography* (Ann Arbor: University of Michigan Press, 2006), 52–53.
73. Sogno, *Symmachus*, 23, 53, 84. Elder Symmachus: Symmachus, *Epp.* 1.44, 2.38; *Or.* 5; PLRE I: L. Aurelius Avianus Symmachus signo Phosphorius 3. Younger Symmachus: Symmachus, *Epp.* 6.66, 8.64, 8.65, 9.81. PLRE I: Q. Aurelius Symmachus signo Eusebius 4.
74. For statements on the ways that ancient crowds deviated from their standard portrait (as turbulent and irrational), see Thomas Africa, "Urban Violence in Imperial Rome," *Journal of Interdisciplinary History* 2, no. 1 (1971), 3–21; McLynn, "Controversy," esp. 19–22.
75. Jean Colin, *Les villes libres de l'Orient gréco-romain et l'envoi au supplice par acclamations populaires* (Bruxelles: Latomus, 1965), 146–51. The fact that the sources emphasize popular expulsion occurring in Rome may be significant. In the early Empire, the Roman people used acclamations as a means to compensate for their lack of constitutional powers by making their mind known to the emperor, see Gregory Aldrete, *Gestures and Acclamations in Ancient Rome* (Baltimore: Johns Hopkins University Press, 1999), esp. 101–104. The crowd-enforced banishments may harken back to these earlier episodes and represent vestiges of that city's belief that its populace should have a voice in the operation of the state.
76. Gregory, *Vox*, 217; see also Charlotte Roueche, "Acclamations in the Later Roman Empire: New Evidence from Aphrodisias," *JRS* 74 (1984): 181–99.
77. On the Antiochene riot, see David Hunter, "Preaching and Propaganda in Fourth Century Antioch: John Chrysostom's Homilies on the Statues," in *Preaching in the Patristic Age: Studies in Honor of Walter J. Burghardt, S.J.*, ed. David Hunter, 119–138 (New York: Paulist Press, 1989); Frans van de Paverd, *St. John Chrysostom, The Homilies on the Statues: An Introduction* (Rome: Pont. Institutum Studiorum Orientalium, 1991); Kelly, *Golden Mouth*, 72–82.
78. See pp. 156–157.
79. Jones, *Empire*, 480–81; Harries, *Empire*, 191–211; Rapp, *Bishops*, 242–52.
80. Sirm. 1; Harries, *Empire*, 196–97.
81. Harries, *Empire*, 205, 209.
82. Julian, *Ep.* 17.
83. Athanasius, *Defense of his Flight* 6.1–7.5.
84. Socrates 7.14–15.
85. Robert Wilken, *Judaism and the Early Christian Mind: A Study of Cyril of Alexandria's Exegesis and Theology* (New Haven: Yale University Press, 1983), 100–101.

- Press, 1971), 57, denies the historicity of this banishment on the grounds that the number of Alexandrian Jews was too large to banish. By contrast, Jean Rougé, "La politique de Cyrille d'Alexandrie et le meurtre d'Hypatie," *Cristianesimo nella storia* 11 (1990): 485–504; Norman Russell, *Cyril of Alexandria* (New York: Routledge, 2000), 6–9; and Fournier, "Bishops," 164–65, take this saga as historical.
86. *Liber Pontificalis* 40, 42, 51
 87. *Liber Pontificalis* 40.2.
 88. *Liber Pontificalis* 51.1.
 89. *Liber Pontificalis* 42.1.
 90. The affair of Priscillian displays how significant the charges of Manichaeism could be. See Burrus, *Making*, 47–78.
 91. On Montanism, see Timothy Barnes, "The Chronology of Montanism," *JThS* 21, no. 2 (1970): 403–408; Barnes, *Tertullian*, 130–42; Christine Trevett, *Montanism: Gender, Authority, and the New Prophecy* (Cambridge: Cambridge University Press, 1996). On Cataphrygians, see Douglas Powell, "Tertullianists and Cataphrygians" *Vigiliae Christianae* 29 (1975): 33–54
 92. CTh 16.5.40. See L. Duchense, *Le Liber Pontificalis: Texte, introduction et commentaire* (Paris: E. de Boccard, 1955) 1:222n2. Duchense, however, sees the existence of Montanists as plausible.
 93. Cf. Lieu, *Manichaeism*, 204.
 94. Philostorgius 4.8–9.
 95. Rufinus, *HE* 11.3.
 96. Rufinus, *HE* 11.3.
 97. See Garth Fowden, "Bishops and Temples in the Eastern Roman Empire A.D. 320–435," *JThS* 29, no. 1 (1978): 53–78, esp. 56–57, 66–78; MacMullin, "Masses," esp. 268–75.
 98. Peter Brown, *Power and Persuasion in Late Antiquity: Towards a Christian Empire* (Madison: University of Wisconsin Press, 1992), 102–103.
 99. See Brown, *Power*, 103–117.
 100. Robinson, *Practice*, 4 notes that vendetta did not play a major part in Roman justice.

NOTES TO CHAPTER 4

1. Ulpian, who flourished circa 211–222, issued this opinion before the period of the later Empire; see Tony Honoré, *Ulpian* (Oxford: Clarendon Press, 1982), 6–7. Because the importance of the provincial governor dramatically declined as a function of Diocletian's restructuring of the empire, Ulpian was describing a political reality that had changed in the period under examination.
2. D 48.19.4.
3. Philostorgius 9.8.
4. Jones, *Empire*, 1:608; Slootjes, *Governor*, 2–3.
5. See Harries, *Empire*, 56–59.
6. An exception would be imperial edicts directed to the populace, e.g. CTh 14.10.2; see Tellegen-Couperus, *History*, 125.
7. PL 45:1727 (=C-N 2:581–85); see p. 55.
8. PL 45:1750 (=C-N 2:615). PLRE II: Rufius Antonius Agrypnius Volusianus 6. On Caecilius, see Guido Honnay, "Caecilius, discipulus Pelagii," *Augustiniana* 44 (1994): 271–302.
9. Barnes, *Athanasius*, ix; David Gwynn, *The Eusebians: The Polemic of Athanasius of Alexandria and the Construction of the 'Arian Controversy'* (Oxford: Oxford University Press, 2007).

10. Barnes, *Athanasius*, 132.
11. Athanasius, *Defense against the Arians*, 8, 10. On the Council of Tyre, see Barnes, *Athanasius*, 22–30; Hanson, *Search*, 259–65.
12. Athanasius, *Defense against the Arians*, 14.
13. Athanasius, *Defense of his Flight*, 24; see also *Historia Acephala* 5; *Defense before Constantius* 22. In the latter work, Athanasius indicates that Syrianus operated in concert with Diogenes the state secretary (ὁ νοτάριος). PLRE I: Syrianus; Diogenes 2. Given Ammianus's testimony on Constantius's use of Paul the secretary (see p. 75), it is not difficult to accept Athanasius's claim that this same emperor would deploy another holder of that office for such a task.
14. Garnsey and Humfress, *Evolution*, 144.
15. On the career and exiles of Paul, see W. Telfer, "Paul of Constantinople," *Harvard Theological Review* 43 (1950): 31–92; Barnes, *Athanasius*, Appendix 8.
16. PLRE I: Hermogenes I. On the dating of this episode, see Barnes, *Athanasius*, 213.
17. Sozomen 3.7.5–6; Jerome, *Chronicle* 280th Olympiad.f; Ammianus 14.10.2; Libanius, *Or.* 1.44; see Telfer, "Paul," 80.
18. Socrates 2.13.1–3. Cf. McLynn, "Controversy," 26.
19. In addition to the matters discussed below, Constantius himself rushed to the capital when its citizens killed Hermogenes. The imperial presence was sufficient to ensure Paul's successful banishment. See Socrates 2.13.4–5; Sozomen 3.7.7–9; Libanius *Oration* 1.44, 59.94; Jerome, *Chronicle* 280th Olympiad.f.
20. PLRE I: Flavius Philippus 5.
21. Socrates 2.16.1–5; Sozomen 3.9.1–3; Telfer, "Paul," 84–85.
22. Multiple explanations can account for this. Perhaps Constantius felt that an official with a more political touch was necessary to accomplish the mission, thus he turned to a non-military administrator who, he hoped, would find a way to get the job done without bloodshed. Or perhaps Philip was merely an exceptionally competent bureaucrat, thus making him the likely candidate for a difficult assignment. It may even be that Philip was simply stationed near Constantinople at the time.
23. Also, Ammianus 15.7.10, relates that the authorities removed bishop Liborius from Rome at night to avoid angering the people.
24. Theodoret, *HE* 4.14.1. See Lenski, *Failure*, 258.
25. Theodoret, *HE* 4.14.2. Theodoret goes to indicate that the masses soon caught up with Eusebius, but their emotional response was one of sorrow, not violence.
26. Palladius, *Dialogue on the Life of John Chrysostom*; Kelly, *Golden Mouth*, 253–57, 260–271.
27. Palladius, *Dialogue on the Life of John Chrysostom*, 10.
28. Sozomen 8.22.
29. See p. 51.
30. ACO 1.4.2 p. 198, section 268 (=C-N 2:694).
31. Taken thus by C-N 2:694n8. In the later Empire, the degree of overlap between conventional army men and civilian bureaucrats was substantial, at times even total; see MacMullen, *Soldier*, 49–51, 65, 71–76. The information from Dionysius is insufficient for determining where these *ciuiles ordines* fell on the spectrum; see Nippel, *Order*, 90–112.
32. See PLRE II: Fl Titus 2.
33. ACO 1.4.2 p. 200, section 272. (=C-N 2:697–80).
34. "The study of the late Roman army is rather like trying to grasp the soap in the bath," Pat Southern and Karen Dixon, *The Late Roman Army* (London: Batsford, 1996), ix.

35. See the careful analysis of Michael Whitby, "Emperors and Armies, AD 235–395," in *Approaching*, ed. Swain and Edwards, 156–186, esp. 156–60.
36. The principal sources for the army in the later Empire are Ammianus (who himself served in the army) and the *Notitia Dignitatum*, a list of Roman offices. On the sources for the study of the army, see Southern and Dixon, *Late*, 1–3; on the army in general, see, in addition to Southern and Dixon, the discussions of Jones, *Empire*, 1:607–86, esp. 607–623, 657–68; Richard Cromwell, *The Rise and Decline of the Late Roman Field Army* (Shippensburg: White Mane Pub. Co.: 1998), esp. 5–21.
37. See Southern and Dixon, *Late*, 4–38.
38. See Robinson, *Rome*, 181. For instance, *limitanei milites* were distinct from *auxiliares milites*; see Martinus Nicasie, *Twilight of Empire: The Roman Army from the Reign of Diocletian until the Battle of Adrianople* (Amsterdam: J.C. Gieben, 1998), 18, 54. In general, see G. R. Watson, *The Roman Soldier* (Ithaca: Cornell University Press, 1969); on the use of *miles* as a civil title, see Ramsay MacMullen, *Soldier and Civilian in the Later Roman Empire* (Cambridge: Harvard University Press, 1963), 49–76.
39. For the letter, see R. E. Sivan, "An Unedited Letter of the Emperor Honorius to the Spanish Soldiers," *Zeitschrift für Papyrologie und Epigraphik* 61 (1985): 273–87; see also Nicasie, *Twilight*, 29 on the interpretation of this opening line.
40. The point is not that ethnic Romans were more reliable than were barbarian troops (a view undermined by Jones, *Empire*, 1:621 and Whitby, "Armies," 173), but that Titus might harbor certain prejudices.
41. Sulpicius Severus, *Chronicle* 2.43. PLRE I: Flavius Taurus 3. Four hundred (or, according to some sources, three hundred) bishops attended the council. The other sources for this council are summarized by Hanson, *Search*, 376n114, who points out that Sulpicius depended on an eye-witness for his account. The Council of Ariminum was called in the West in conjunction with the Council of Seleucia in the East so that bishops from both halves of the Empire might come to the same conclusion. On this council, see Daniel Williams, *Ambrose of Milan and the End of the Nicene-Arian Conflicts* (Oxford: Clarendon Press, 1995), 22–37; Hanson, *Search*, 371–80; Barnes, *Athanasius*, 144–46.
42. The last clause about a limit of fifteen exiles is curious. It may be the case that this prefect would not have come equipped with sufficient troops to escort more than fifteen bishops into banishment. Also, Constantius could have felt that there was potential harm in dispersing across the empire a great number of bishops who disagreed with his position. They might have publicized their views. Or, the emperor might have believed that finding more than fifteen *homoian* bishops to fill their evacuated sees would have been difficult.
43. Sloomies, *Governor*, 45. On a bishop's local support and its significance, see Fournier, "Bishops," esp. 164–66. On the social place of the bishop in late antiquity, see Rapp, *Bishops*, 155–234, with survey of previous modes of scholarship at 6–15 (see esp. Brown, *Power and Brown, Poverty*).
44. Jerome, *Ep.* 82.10: *nuper nobis postulauit et impetrauit exilium*. Literally, "He lately requested and obtained *exilium* against us." The fact that Jerome did not go into exile confirms that the *exilium* which John obtained was an order, not the deed itself.
45. J. N. D. Kelly, *Jerome: His Life, Writings, and Controversies* (London: Duckworth, 1975), 204, theorizes that the Hun invasion and death of the powerful administrator Flavius Rufinus account for the edict's failure.
46. Jerome, *Ep.* 82.10.
47. Collected by MacMullen, "Masses," 270; see esp. Sirm. 2.

48. PLRE I: Aquilinus 2.
49. *Collectio Avellana* # 13 (=CSEL 35.1:54–58; C-N: I:345–50).
50. Julian, *Ep.* 24 (398C–399A). I employ the LCL numbering system for Julian's letters. See Garnsey and Humfress, *Evolution*, 146.
51. The ancient chronicles of Athanasius's life, *Historia Acephala* 11 and *Festal Letters*: Index 35, indicate that Athanasius promptly obeyed the first demand to leave the city. Barnes, *Athanasius*, 158, tacitly disagrees with this evidence and deduces that Athanasius did not leave from a request by the local Senate to Julian asking that Athanasius be permitted to stay. I follow Barnes's convincing, if slightly implicit, reconstruction.
52. Julian, *Ep.* 46.
53. D 48.19.2.1; see pp. 69–70.
54. D 48.22.7.1.
55. Alternatively, Ulpian may have a worse fate (jail) in mind for *deportati* than that (something akin to house arrest) which he envisions for *relegati*. If this were the case, then perhaps the *milites* served only to extract their charge.
56. CTh 9.40.17.
57. Zosimus 5.9.5. PLRE I: Flavius Timasius.
58. Delmaire, "Lettres," 167.
59. John Chrysostom, *Ep.* 115. PLRE II: Theodorus 6.
60. On the *praefectiani*, see Jones, *Empire*, 1:586–92; Kelly, *Ruling*, 29, 30. Delmaire, "Lettres," 162, points out that more evidence for *praefectiani* acting in this capacity comes from the account of a deputation from Rome sent to support Chrysostom (which included Palladius himself) in Palladius, *Dialogue*, 20. While in that case those being led were not quite exiles, the fact that *praefectiani* did the leading provides valuable support.
61. John Chrysostom, *Ep. IX to Olympias* 2.c.
62. See Delmaire, "Lettres," 162: Theodorus 1. The martial prowess of angry monks could be considerable. See Gaddis, *Crime*, 208–48.
63. John Chrysostom, *Ep. I to Olympias* 1.b. See Kelly, *Golden Mouth*, 255.
64. ACO 1.4.2 p. 203 (=C-N 2:482). See Millar, *Greek Roman*, 179–81; PLRE II: Fl. Anthemius Isidorus 9. On *parhippi*, see also CJ 12.50.4.
65. Michael Speidel, *Guards of the Roman Armies: An Essay on the Singulares of the Provinces* (Bonn: Rudolf Habelt Verlag, 1978), 40, 67. See also MacMullen, *Soldier*, 66–67; Robinson, *City*, 181–82.
66. Occasionally, there surfaces a lurid picture of enforcers' techniques. For example, Athanasius, *History of the Arians* 7.4, claims that when Constantius banished Paul of Constantinople, the bishop was bound with chains. Even if this allegation were true, Athanasius mentions it because he finds the point shocking and abnormal. It would be unwise to assume that such devices were standard practice.
67. The case of Hilary of Poitiers, however, provides a possible example as certain features of his experience fit with a banishment sentence along these lines. Sulpicius Severus, *Chronicle* 42.1–2, indicates that Hilary travelled from Phrygia to attend the Council of Seleucia in 359. Jerome, *Chronicle* 284th Olympiad.g, indicates that Hilary at Constantinople presented an apologetic book to Constantius. The reasons for these movements are not clear, though. See Yves-Marie Duval, "Vrais et Faux Problèmes Concernant le Retour d'Exil d'Hilaire de Poitiers et Son Action en Italie en 360–363," *Athenaeum*, n.s., 48 (1970): 251–75; D. H. Williams, "A Reassessment of the Early Career and Exile of Hilary of Poitiers," *Journal of Ecclesiastical History* 42, no. 2 (1991): 202–17.
68. Liberius's letters, preserved by Hilary of Poitiers, are sometimes cited by their first two words, here the *Non doceo*. However, for clarity I refer to them using

the modern critical edition, in this case, Hilary, *Fragmenta historica* B VII.11.1. On the *agentes in rebus*, see Jones, *Empire*, 1:572–82; William Sinnigen, “The Roman Secret Service,” *The Classical Journal* 57, no. 2 (1961): 65–72.

69. John Chrysostom, *Ep.* 236. PLRE II: Carterius 1. On which province Carterius governed, see Delmaire, “Lettres,” 25, 117.
70. John Chrysostom, *Ep.* 236.
71. Delmaire, “Lettres,” 117.
72. The saga of Paul of Constantinople, a bishop banished from that city to Cucusus some seventy years before John, may contrast with John’s experience. Athanasius, *History of the Arians* 7.5 invokes the vicar Philagrius as a witness hostile to his cause but one who nevertheless gives corroborating testimony about Paul’s undoing. Barnes, *Athanasius*, 167, takes this as evidence that, as vicar, Philagrius was in charge of Paul. If so, it explains why Philagrius would have been familiar with the case. In that case, it would seem that the roles of the governor and the vicar had shifted over the course of the fourth century so that the former assumed responsibility of exiles in Cucusus. However, Philagrius could have become acquainted with the situation for other reasons, and the fact that Athanasius makes an appeal to him does not require that Philagrius was Paul’s direct supervisor at the time. The abuses which Athanasius details in *Defense of his Flight* 3 are also exaggerated or exceptional.
73. On the stormy relationship between Eusebius and Patrophilus, see Washburn, “Tormenting,” esp. 739–43.
74. Eusebius of Vercelli, *Ep.* 2.4.
75. Liberius: Hilary, *Fragmenta historica*, B VII 8; Demophilus’s views: Socrates 4.14, 5.7.
76. D 48.19.28.13.
77. This amount of supervision may be the issue that underlies the concern for an imperial assignment when it came to an island outside of a governor’s own territory (D 48.19.2.1). The governor with jurisdiction over the island would need some inkling that an exile had been attached to his territory, else he could not have exercised any supervisory oversight.
78. Ammianus 28.3.4–6. The source may have been the vicar Civilis, see 27.8.10. PLRE I: Valentinus 5, Flavius Theodosius 3, Civilis. Peter Salway, *A History of Roman Britain* (Oxford: Oxford University Press, 2001), 392–95.

NOTES TO CHAPTER 5

1. Pliny, *Ep.* 10.56–57.
2. Pliny, *Ep.* 10.56–57; see A. N. Sherwin-White, *The Letters of Pliny: A Historical and Social Commentary* (Oxford: Clarendon Press, 1966), 274–75, 636–639.
3. On the surprising and often murky boundaries between the “criminal” and the “civil” in Roman law, see Harries, *Crime*, 2–7.
4. Recall that in Cicero’s era, *exilium* served not as punishment but as it alternative; see pp. 5–6.
5. D 48.10.1.13. On *falsum*, punishable under the *Lex Cornelia de falsis*, see Berger, *Dictionary*, 467; see also PS 4.71.
6. D 48.11.7.3. On *repetundae*, see Harries, *Crime*, 59–71. It is possible that Macer exhibits the “minimal” understanding of *exilium*, see pp. 21–22.
7. D 48.13.3.
8. Compare Garnsey, *Social*, 119.
9. CTh 11.36.14; PLRE I: Iunius Flavianus 10. See Barnes, *Athanasius*, 314n37 and his “Proconsuls of Africa, 337–392,” *Phoenix* 39 (1985): 144–53, at 148. Constantine’s law: CTh 9.10.1.

10. See Richard Bauman, *Human Rights in Ancient Rome* (New York: Routledge, 2000), 100.
11. CTh 3.5.5; 9.8.1. See Evans Grubbs, *Law*, 165–70, 193–202, who outlines the confusion in and possible interpretations of CTh 9.8.1.
12. CTh 3.10.1.1.
13. On the *lex Julia de adulteriis*, see p. 197nn141 and 143.
14. D 48.5.12; 48.9.2; 48.19.40.
15. CTh 12.19.3. On decurions and their obligations, see Jones, *Empire*, 1:734–63.
16. CTh 9.16.1; CJ 9.39.2.2. Marcian's law also makes a separate provision—loss of property—for the landowner if he knowingly harbored criminals. A law of the emperor Julian, CTh 12.1.50, fits this pattern as well and is treated below. Though after the period of this study, see also CJ 9.13.1.2.
17. See Garnsey, *Social*, 119n10; Harries, *Crime*, 106–17; see also Robinson, *Rome*, 191–209.
18. D 48.19.28.10.
19. PS 5.22.1.
20. PS 5.30.a. No doubt the dual penalty system lurks behind this judgment but, because the lower classes were hardly likely to commit *ambitus*, there was no need to specify alternate punishments.
21. Ammianus 15.7.3–5.
22. So named because in 246 BCE, the Roman *aediles* created a category of offense called *maiestas minuta*, diminishing the majesty of Rome: Bauman, *Punishment*, 13. See also Harries, *Crime*, 72–85.
23. See Harries, *Crime*, 81.
24. D 48.19.24.
25. See also Harries, *Crime*, 84.
26. For what it is worth, *Scriptores Historiae Augustae* Commodus Antonius IV.11—an unreliable source for the era preceding ours—indicates that of individuals indicted for *maiestas* under Commodus, many were put to death but some were reprieved with *exilium*. Ibid., Pertinax VI.8 relates that Pertinax, Commodus's eventual successor, recalled those deported for *maiestas*. For another possible example (Oribasius), see Barry Baldwin, "The Career of Oribasius," *Acta Classica* 18 (1975): 85–97.
27. Ammianus 19.12.9, 19.12.10, 28.1.17–23, 28.1.21, 28.1.26, 29.2.9–13, 29.2.9–16. PLRE I: Simplicius 4, Parnasius 1, Iulius Festus Hymetius, Frontinus 3, Lollianus 1, Fl. Eusebius 40, Flavius Hypatius 4, Claudius 4.
28. Ammianus 26.7.4.
29. Ammianus 26.10.6–8.
30. Sextus Aurelius Victor, *Liber de Caesaribus* 39.15.
31. Philostorgius 9.8. Hanson, *Search*, 615. Lenski, *Failure*, 245.
32. Orosius 7.42.9. PLRE II: Priscus Attalus. Jones, *Empire*, 1:186–188; Matthews, *Western*, 317–18, 354.
33. Philostorgius 12.5 (=Olympiodorus, *Fragment* 26).
34. See the discussion of the viability of such broad strokes in Garnsey and Humfress, *Evolution*, 83–104, esp. 83–85. For a balanced treatment of the erosion of legal privilege in the period, see Harries, *Empire*, 118–34, esp. 124–26.
35. See the careful discussion on both the earlier jurists and *Pauli Sententiae* in Bauman, *Crime*, 124–28.
36. On "differential punishments," see Garnsey, *Social*, 103–78, 221–59; Bauman, *Crime*, 124–40. The opinions contain gradational penalties for various culprits depending on their rank. D 48.5.39.8 (Papinian): those who killed their wives caught in the act of adultery received eternal forced labor or *relegatio* to an island (but note also D 48.8.1.5, in which a Marcian appears to misconstrue the same rescript, issued by Antoninus Pius, by allotting

permanent *exilium* rather than labor to lower-class cuckolds (see p. 192n41); D 48.8.16 (Modestinus): murderers received capital punishment or (if they held office) *deportatio*; D 48.13.7 (Ulpian): those who mildly desecrated a temple during daylight hours were sentenced to the mines or *deportatio* to an island; D 48.13.8 (Ulpian): those who stole gold or silver from imperial mines were sentenced to the mines or to *exilium*; D 48.19.28.9 (Callistratus) poisoners received capital punishment or *deportatio*. PS contains an even more tightly worked out system: 1.21.12: those who resided near monuments were sent to the public works or to *exilium*; 5.19: those who broke into a temple nocturnally were sent to the mines or *deportatio*; 5.21.2: those who led a sedition were hanged, condemned to the beasts, or deported to an island; 5.22.5: seducers of underage virgins were condemned to the mines or received *relegatio* to an island or *exilium*; 5.23.13: castrators received death or *deportatio*; administration of a drug that caused death merited capital punishment or *relegatio* to an island; 5.25.1 and 5.25.7: those who mistreated a will were sentenced to the mines (or killed) or deported to an island; 5.25.8 and 5.25.9: procurators who aided the opposition were sentenced to the mines or deported. PS 5.4.8 may be an implicit statement of rank as well. See also p. 196nn120–21.

37. D 48.2.12.4: *relegatio* would not be suitable for a slave; D 48.18.9: those deported to islands should not be tortured—immunity to torture was another important legal privilege of the upper class; see Garnsey, *Social*, 141–47; Ramsay MacMullen, “Judicial Savagery in the Roman Empire” in his *Changes*, 204–17, esp. 207–208; Harries, *Empire*, 122–35; Garnsey and Humfress, *Evolution*, 83–85, 88–95; D 48.20.8.3: *relegati*, though they might lose their property, retained their rights against their freedmen.
38. D 48.19.28.9.
39. Formulated by in the nineteenth century by Theodor Mommsen, *Römisches Strafrecht* (Graz: Akademische Druck- u. Verlagsanstalt, 1955), 968–69.
40. On Republican *exilium*, see Bauman, *Crime*, 16, who notes that despite other scholars’ assumption that only elites could avail themselves of voluntary exile, neither Polybius nor Cicero (the *loci classici*) states as much; see p. 5. Consequently, Bauman concludes that in the absence of evidence to the contrary, there was no elitist barrier for this practice. On imperial, see Garnsey, *Social*, 120–21, who finds that the sources attest to examples of *relegatio* and *deportatio* being practiced upon the lower classes. However, the evidence does still support a more conservative position, that these punishments were more commonly applied to higher ranks.
41. In addition to the view of Papinian, see also Marcian’s comments in D 48.8.1.5. Marcian cites a rescript issued by Antoninus Pius, one which also appears to underlie an opinion of Papinian, preserved at D 48.5.39.8. According to Marcian, Pius ruled that lower-class cuckold/murderers should receive permanent *exilium*; according to Papinian, Pius prescribed permanent forced labor for offenders of this type and class. It is possible that Papinian and Marcian have in mind two separate rescripts which, though from the same emperor on the same subject, pronounce different verdicts. Given the similarities, however, it seems more probable that a single rescript lies behind both opinions. In that case, the question becomes which of the two contemporary jurists preserves Pius more faithfully. Papinian purports to transmit the exact wording of the original, which seems to tip the scales in his favor (for what it is worth, Papinian is also judged the premier jurist by both Constantine’s and Theodosius II’s laws of citations, CTh 1.4.1–1.4.3). In that event, it is even more revealing that Marcian could pervert Pius’s mandate in such a way. It shows that a Severan jurist could imagine even members of the lower class as recipients of permanent *exilium*.

42. D 48.10.13.1.
43. Garnsey and Humfress, *Evolution*, 85.
44. CTh 9.21.1 The law seems to be part of a larger effort towards legal clarity on Constantine's part; see Jill Harries, "Constantine the Lawgiver" in *Tetrarchs*, ed. McGill, Sogno, and Watts, 73–92, at 84.
45. CTh 8.5.35.pr does issue a punishment differential that includes *relegatio* for decurions; however, the issue here is office rather than rank. It specifies dismissal from office for those employed in the imperial service but a one-year sentence of *relegatio* for decurions. Thus the critical distinction would seem to be the type of position, not social status, held by the offender.
46. CTh 5.5.3; 10.11.1.
47. CTh 9.26.1.
48. CTh 9.26.2; 9.26.3.
49. Harries, *Crime*, 60–61. Thus when CTh 9.26.2 indicates that violators should be condemned to deportation as *gravissimis suppliciis*, it may mean "the most severe punishments" allowed for miscreants of this social class.
50. CTh 9.32.1.
51. CTh 12.1.50. On *ingenui*, see Henrik Mouritsen, *The Freedman in the Roman World* (Cambridge: Cambridge University Press, 2011), esp. 66–119; Kyle Harper, *Slavery in the Late Roman World, AD 275–425: An Economic, Social, and Institutional Study* (Cambridge: Cambridge University Press, 2011), 463–93.
52. Vehicles: CTh 8.5.17; assembly: CTh 16.5.65.3, which also prescribes *exilium* for freemen who perform heretical baptism, but does not, at least in the surviving versions (it appears in CJ 1.5.5 as well), contain a clause enumerating the punishment for the improbable situation of slaves who baptized.
53. That slaves could be banished in exceptional circumstances is discussed below. In the main, slaves, depending on their particular circumstances, might even have welcomed banishment as a form of de facto emancipation and therefore had to be given something worse as a deterrent.
54. Examples include CJ 1.5.8.5: holding heretical books; 1.6.3: apostate baptism; 8.4.6.1: bad advice; 8.51.20: thwarting *postliminium*; 9.1.13: fraternal accusation; 10.6.2: borrowing from the fisc. CTh 1.5.3: appealing justice; 2.1.9: taking a civil case to a military court; 3.16.1: attempting divorce; 3.5.5: double betrothal; 9.24.1: failure to show proper grief at a daughter's rape; 11.14.3: violating imperial storehouses; 11.30.17: improper appeal; 11.34.1: renewing a suit when one should have appealed; 16.5.58: receiving rebaptism; 16.8.26: circumcising a Christian; 16.10.23: pagan sacrifice.
55. CTh 9.23.1.1. On this law, see Johannes Heinrichs, "Münzverbote in der römischen Kaiserzeit?" in *Herrschen und Verwalten: Der Alltag der römischen Administration in der Hohen Keiserzeit*, ed. Rudolf Haensch and Johannes Heinrichs, 80–116, at 87–91 (Köln: Böhlau, 2007).
56. CTh 14.3.21.
57. CJ 4.63.4.1. On the social position of merchants, see Jones, *Empire*, 2:864–72; on the fuzziness of espionage at the frontiers, see Kimberly Kagan, "Spies Like Us: Treason and Identity in the Late Roman Empire" in *Romans, Barbarians, and the Transformation of the Roman World: Cultural Interaction and the Creation of Identity in Late Antiquity*, ed. Ralph Mathisen and Danuta Shanzer, 161–75, esp. 162–69 (Farnham, U.K.; Burlington, VT: Ashgate, 2011).
58. We cannot discern whether or not these laws were prompted by *suggestiones*; however, the legislators in these cases accepted the notion, in the abstract, that those bourgeois members of society could qualify for banishment.
59. Food shortage and public disturbance often went hand in hand. See the cases of Avianus Symmachus (PLRE I: L. Aurelius Avianus Symmachus

- signo Phosphorius 3) in Ammianus 27.3.4 and Gabinius Barbarus Pompeianus (PLRE II: Gabinius Barbarus Pompeianus II) in the *Life of Melania the Younger* Greek 19/Latin 2.1. On the bread supply system of Rome and Constantinople (the *annona*), see Jones, *Empire*, 1:695–705; Jean-Michel Carrié, “Les distributions alimentaires dans les cités de l’empire romain tardif,” *Mélanges de l’Ecole française de Rome* 87, no. 2 (1975): 995–1101; A. J. B. Sirks, *Food for Rome: The Legal Structure of Transportation and Processing of Supplies for the Imperial Distributions in Rome and Constantinople* (Amsterdam: J.C. Gieben, 1991); Robinson, *Rome*, 151–55; Nippel, *Order*, 85–90, 98.
60. CTh 8.5.2. It is true that veterans were *honestiores*, but the criminals in this case seem to be still enlisted.
61. CTh 7.18.8.1a-1b.
62. CTh 7.10.1.2.
63. CTh 9.36.2.
64. CTh 9.17.1. Sirks, *Code*, 223, following the *summaria* of the Code, takes this to mean that the slave’s master was relegated. However, the parallelism of this law (both in CTh and in the version contained in CJ 9.19.2) imply that the penalties afflict the same offender (the slave), whose circumstances could mitigate the punishment. For a discussion of the place of this law, see Paola Cuneo, “La législation du Bas-Empire sur les tombeaux et la pensée de F. De Visscher” in *Le Monde Antique et les Droits de l’homme: Actes de la 50e Session de la Société internationale Fernand De Visscher pour l’histoire des droits de l’antiquité, Bruxelles, 16–19 septembre 1996*, ed. Huguette Jones, 25–38 (Bruxelles: Université libre de Bruxelles, Centre de droit comparé et d’histoire du droit, 1998).
65. CTh 14.10.1.
66. CTh 14.10.1.3.
67. PS addresses the issue of the wayward *iudex*, but it is unclear how relevant this is for the subsequent centuries, as the text may not mean this term in the sense that later authors often understood it—that is, as a synonym for the provincial governor. It is clear from 5.28 that PS envisions the *iudex pedaneus* in distinction to the *praeses* (governor). It is probably the case that in other passages, even when it does not attach the modifier *pedaneus* to *iudex*, by “*iudex*,” PS still means the *iudex pedaneus* rather than the *praeses*. In any event, 5.23.11 (10) and 5.25.2 prescribe *deportatio* for a *iudex* who allows himself to be bribed; 5.25.4 specifies the same for one who defies an imperial constitution; and 5.28 recommends temporary *relegatio*, *exilium*, or ejection from the curia for *iudices pedanei* who have been bought off.
68. Harries, *Empire*, 97.
69. Harries, *Crime*, 59–71.
70. Claassen, *Persons*, 9; Jones, *Empire*, 1:521–22.
71. CTh 9.3.6.
72. CTh 14.15.6.
73. CJ 4.2.16.
74. CJ 1.4.15 (=2.6.8)
75. See Slootjes, *Governor*, 25–31.
76. CJ 1.51.2. The law mentions the *adsores* of *praesides*; on this title, see Slootjes, *Governor*, 20.
77. CTh 2.1.6.
78. CJ 8.12.1.
79. CTh 8.5.35.
80. Elites had grown increasingly disenchanted with the lot of civic responsibility in their locality. See Jones, *Empire*, 740–41.

81. CTh 6.30.16.1. See also 6.30.17.
82. CTh 12.19.3. On the *defensor civitatis*, see Jones, *Empire*, 1:479–80; Slootjes, *Governor*, 32.
83. Sirm 14. Judges lost their rank; their staffs received a fine of twenty pounds of gold, and chief members of the staff endured some additional penalty.
84. E.g. Ammianus 30.4.2; see further in Harries, *Empire*, 153–55.
85. On the bind of the governor, see Jones, *Empire*, 1:493; Slootjes, *Governor*, 73–76.
86. Thomas M. Banchich, “The Date of Eunapius’ *Vitae Sophistarum*,” *Greek, Roman and Byzantine Studies* 25 (1984): 183–92; see also his “On Goulet’s Chronology of Eunapius’ Life and Works,” *The Journal of Hellenic Studies* 107 (1987): 164–77 and J. H. W. G. Liebeschuetz, “Pagan Historiography and the Decline of the Empire,” in *Greek and Roman Historiography in Late Antiquity: Fourth to Sixth Century A.D.*, ed. Gabriele Marasco, 177–218, at 179–87 (Leiden; Boston: Brill, 2003).
87. Prohaeresius was in fact a Christian, but no ancient source connects the cause of his banishment with his Christianity. In any case, he was not a cleric. See Eunapius, *Lives of the Sophists* 488; Jerome, *Chronicle* 362.
88. Eunapius, *Lives of the Sophists* 488. See Björn Isebaert, “Prohaeresios’ Honourable *Domum Reductio* by a Proconsul and his Troops: A Textcritical Note on Eunapios’ VS, X.5, 5.490,” *Mnemosyne* 55, no. 4 (2002): 499–502; Brown, *Power*, 44–45; Edward Watts, *City and School in Late Antique Athens and Alexandria* (Berkeley and Los Angeles: University of California Press, 2006), 48–60.
89. Eunapius’s terms for Prohaeresius’s condition (ἐξόριστον and τὴν φυγὴν) are generic.
90. Though Eunapius is silent on the matter, the support of the western emperor Constans, predicated on Prohaeresius’s Christianity, seems to have been the decisive factor; see Watts, *City*, 59–61.
91. D. F. Buck, “Prohaeresius’ Recruitment of Students,” *Liverpool Classical Monthly* 12, no. 5 (May 1987): 77–78; Watts, *City*, 58.
92. See p. 30.
93. Firmicus Maternus, *Mathesis* 2.29.14, though it is possible that Maternus is reasoning backwards from the fact that the native was condemned for *adulterium* to the conclusion that he actually committed it.
94. Firmicus Maternus, *Mathesis* 29.11–12.
95. See p. 92.
96. See R. C. Blockley, *The Fragmentary Classicising Historians of the Later Roman Empire* (Liverpool: Cairns, 1981): 1:1–2; David Rohrbacher, *Historians of Late Antiquity* (London; New York: Routledge, 2002), 64–72, esp. 65–66.
97. Zosimus 5.8.3–9.6. See J. H. W. G. Liebeschuetz, *Barbarians and Bishops: Army, Church, and State in the Age of Arcadius and Chrysostom* (Oxford: Clarendon Press, 1990), 96; Cameron, Long, and Sherry, *Barbarians*, 132, 194.
98. See pp. 29–30, 92.
99. He was soon recalled, tried for treason, and killed. See CTh 9.40.17; Liebeschuetz, *Bishops*, 104–108; Cameron, Long, and Sherry, *Barbarians*, 109, 162–63, 318, 324–25; Kelly, *Golden Mouth*, 145–150.
100. Socrates 6.6.9–10; Sozomen 8.4.5; Zosimus 5.18.7–9; John of Antioch, *Fragments*, 190. See also Synesius of Cyrene’s *Egyptian Tale*, 16. Liebeschuetz, *Bishops*, 108; Cameron, Long, and Sherry, *Barbarians*, 8, 164–79.
101. Ammianus 19.12.10, 22.3.3, 22.3.4, 22.3.7, 22.3.7, 27.3.2, and 27.7.3, 28.1.17–23. PLRE I: Parnasius 1, Flavius Taurus 3, Flavius Saturninus 10, Cyrinus, Memmius Vitrasius Orfitus signo Honorius 3, Iulius Festus Hymetius. Recall also that Simplicius was exiled after holding office.

102. Ammianus 22.3.3. PLRE I: Palladius 4.
103. Ammianus 22.3.3–7; see pp. 75–76.
104. *Religio*: LS, s.v. “*religio*”; OLD, s.v. “*religio*.” *Eusébeia*: LSJ, s.v. “*εὐσέβεια*.” See Jonathan Z. Smith, “Religion, Religions, Religious,” in *Critical Terms for Religious Studies*, ed. Mark Taylor, 269–84 (Chicago: University of Chicago Press, 1998).
105. A notion even in evidence in Galerius’s pardon of Christians (in Lactantius, *On the Deaths of the Persecutors* 34.5). See also CTh 16.2.16. On the bishop’s role in society, see Rapp, *Bishops*, 274–79, esp. 278.
106. D 48.13.7 (Ulpian); D 48.13.12.1 (Marcian, citing an imperial rescript).
107. D 48.19.30; see p. 179n71.
108. PS 5.21.2.
109. Tombs: PS 1.21.5 and 5.19; Jews: PS 5.22.4.
110. For the relevant laws, see Amnon Linder, *The Jews in Roman Imperial Legislation* (Detroit: Wayne State University Press; Jerusalem: Israel Academy of Sciences and Humanities, 1987). For scholarship, see, as a start, the essays in Judith Lieu, John North, and Tessa Rajak, eds., *The Jews among Pagans and Christians in the Roman Empire* (London; New York: Routledge, 1992); Jeremy Cohen, *Living Letters of the Law: Ideas of the Jew in Medieval Christianity* (Berkeley and Los Angeles: University of California Press, 1999), esp. 19–66; Andrew Jacobs, *Remains of the Jews: The Holy Land and Christian Empire in Late Antiquity* (Stanford: Stanford University Press, 2004).
111. See, e.g., CTh 16.8.25 and 16.8.27.
112. CTh 16.8.26. The law differs from PS 5.22.4 in several respects. On one hand, it prohibits circumcision of any social grade (not just slaves); on the other, it “protects” only Christians from circumcision whereas PS makes no restriction on the background of the slaves falling under its scope (other than their non-Jewishness). Theodosius II’s laws’ real point concerns conversion to Judaism, whereas PS has in mind slaves who likely were unwilling converts. On Christian imperial pronouncements on and against the Jews, see Fergus Millar, “Christian Emperors, Christian Church, and the Jews of the Diaspora in the Greek East, A.D. 379–450,” repr. in his *Rome, The Greek World, and the East*, vol. 3: *The Greek World, the Jews, & the East*, ed. Hannah Cotton and Guy Rogers (Chapel Hill: University of North Carolina Press, 2006), 457–86, at 461–67.
113. Of course, Jews could be banished for any number of other civil offenses, but in that case, they would not be banished *qua* Jews.
114. See, e.g., Fox, *Pagans*; Frank Trombley, *Hellenic Religion and Christianization: c. 370–529*, 2 vols. (Leiden: E.J. Brill, 1993–1994); H. A. Drake, “Lambs into Lions: Explaining Early Christian Intolerance,” *Past & Present* 153 (November 1996): 3–36; Alan Cameron, *The Last Pagans of Rome* (New York: Oxford University Press, 2011).
115. CTh 16.10.23.
116. NTh 3.8.
117. See pp. 44–45. On magic as “deviance” rather than, or in addition to, statutory infraction, see Harries, *Crime*, 127–31.
118. Cramer, *Astrology*, 247–48.
119. CJ 9.18.2.
120. PS 5.21.3, 5.21.4.
121. PS 5.21.1. The point may be even more limited: it speaks of *vaticinatores*, “*qui se deo plenos adsimulant*,” which, if originally intended as a restrictive clause, makes the offense more specific. See also PS 5.21.2 and 5.23.18.

122. On Christian (and Jewish) astrology, see Kocku von Stuckrad, "Jewish and Christian Astrology in Late Antiquity: A New Approach" *Numen* 47, no. 1 (2000): 1–40.
123. Cramer, *Astrology*, 233.
124. CTh 9.16.1.
125. Dickie, *Magic*, 243.
126. See Robinson, *Penal*, 137–40. See also MacMullen, *Enemies*, 95–162, esp. 125–32. See further the disastrous results of an incomplete séance conducted under Valens: Ammianus 29.1.29–44; Socrates 4.19.1–7. According to *Life of Theodore of Sykeon*, 54, when Theodore informed the general Maurice (late sixth century) that he would soon become emperor, the saint made sure to hold that portion of the conversation in private.
127. Ammianus 19.12.7; see p. 75.
128. Dickie, *Magic*, 246–47.
129. CTh 9.16.12. The law begins by stating that *mathematici* are to be expelled (*PELLI*) from Rome and all cities unless they commit their books to the flame and their souls to the church. It goes on to state that resisters would receive *deportatio*. See p. 172n108.
130. Sirm 6.
131. *Collatio Legum Mosaicarum et Romanarum* 15.3.1–8. See Lieu, *Manichaeism*, 121–25.
132. Brown, "Diffusion," 92–93.
133. Ambrosiaster, *Commentary on 2 Timothy* 3.6–7; trans. of relevant section in Lieu, *Manichaeism*, 185–86.
134. CTh 16.5.11; 16.5.35; 16.5.38; 16.5.40; 16.5.41; 16.5.59; 16.5.65; NVal 18.2.
135. Theodosius I: CTh 16.5.18 (see also 16.5.11); Theodosius II: CTh 16.10.24.
136. *De haereticis*=CTh 16.5. Minor exceptions: CTh 16.7.3; 16.10.24.
137. See pp. 59–60.
138. Augustine, *Ep.* 185.26.
139. Kelly, *History*, 161–62, cites the lone occasion of female banishment in the Republic. See *ibid.*, 2n4, on traditional punishments for women.
140. Tacitus, *Annals* 3.24.2; Cassius Dio 55.12.10–16; Suetonius, *Augustus* 65. See Elaine Fantham, *Julia Augusti: The Emperor's Daughter* (New York: Routledge, 2006), 85–91 and Appendix II: "Testimonia (in chronological order) for Julia's disgrace, exile and death."
141. On the *Lex julia de adulteriis*, see Thomas McGinn, *Prostitution, Sexuality, and the Law in Ancient Rome* (New York: Oxford University Press, 1998), pp. 140–47.
142. PS 2.26.14.
143. See Sarah Cohen, "Augustus, Julia and the Development of Exile *Ad Insulam*," *The Classical Quarterly*, n.s., 58 (2008): 206–217, esp. 213–14. PS 2.26.14 does not seem to cohere with Papinian's statement at D 48.5.40.4.
144. The clause in question exists at CJ 9.9.29.4. See Evans Grubbs, *Law*, 216–18; Antti Arjava, *Women and Law in Late Antiquity* (Oxford: Oxford University Press, 1996), 193–96; Harries, *Crime*, 104–105.
145. Jane Gardner, *Women in Roman Law and Society* (Bloomington: Indiana University Press, 1986), 127–31; Gillian Clark, *Women in Late Antiquity: Pagan and Christian Life-Styles* (Oxford: Clarendon Press, 1993), Harries, *Crime*, 87–88.
146. D 47.11.4.
147. D 48.19.39.
148. D 48.8.8.

149. Gardner, *Women*, 159.
150. D 48.8.3.2.
151. The emperor in question is probably Antoninus Pius (ruled 138–161). Marcus Aurelius (161–180), whose full name was Marcus Aurelius Antoninus, is also a possibility.
152. D 48.20.5.1.
153. D 48.5.40.4.
154. Cyprian, *Ep.* 80.1.2. Cyprian's diction—*matronae ademptis bonis in exilium relegentur*—is legally imprecise. When he indicates that the matrons “were to be relegated into *exilium*,” he probably means the verb in the nontechnical sense. A bishop, not a jurist, Cyprian seems to have communicated the brute facts of the situation, not the exact language of the rescript.
155. Lactantius, *On the Deaths of the Persecutors* 39. PLRE I: Prisca 1.
156. *Chronicon Pascale* 369; John Malalas, 341. PLRE I: Marina Severa 2.
157. Olympiodorus, *Fragment* 38; cf. Philostorgius 12.13, who says she fled there. Irvin Oost, *Galla Placidia Augusta: A Biographical Essay* (Chicago: University of Chicago Press, 1968), 176–77, concludes that she was banished. PLRE II: Aelia Galla Placidia 4.
158. The case of Olympias may illustrate the banishment of a nearly imperial woman. Though she was “just” a deaconess and not actually royalty, she was still a very prominent figure in the fourth and fifth centuries. The *Life of Olympias* 10 (anonymous, fifth-century) maintains that she was sent to Nicomedia for her efforts in support of John Chrysostom (in his own banishment), but Sozomen 8.24.7 indicates that she went to Cyzicus and implies that she left of her own accord. PLRE I: Olympias 2. See Elizabeth Clark, *Jerome, Chrysostom, and Friends: Essays and Translations* (New York: Edwin Mellen Press, 1979), 107–19.
159. CJ 9.49.6.
160. CTh 3.16.1. On Constantine's prohibition of divorce and the changes in the use of banishment in this realm of offense, see Evans Grubbs, *Law*, 228–32.
161. CTh 3.16.2.
162. NAnth 1.3.

NOTES TO CHAPTER 6

1. See Gaertner, “Discourse,” 20; see also pp. 7–8.
2. John Chrysostom, *Ep. XVII to Olympias*.4.b.
3. John Chrysostom, *Epp. XII to Olympias*.1.a and *XVII to Olympias*.1.a.
4. Kelly, *Golden Mouth*, 258.
5. See Claassen, *Displaced*; Whitmarsh, ““Greece””; Gaertner, *Writing*.
6. Although we do not have the letters that Olympias sent to John, his replies indicate that she must have experienced some very dark emotions. E.g. John Chrysostom, *Ep. VII to Olympias* 5; idem, *Ep. XVII to Olympias* 3 admonished Olympias not to consider suicide. There are multiple numbering schemes for John's letters; I follow the one employed by SC 13 bis.
7. John Chrysostom, *Ep. IX to Olympias* 1.a.
8. E.g. Plutarch, *On Exile* 11 (= *Moralia* 603E).
9. E.g. Dio Chrysostom *On Exile* (= *Discourse* 13) 4. On Dio's self-disclosure (or lack thereof) in this passage, see J. L. Moles, “The Career and Conversion of Dio Chrysostom,” *JHS* 98 (1978): 79–100, at 100; Claassen, *Displaced*, 165.
10. See Heather, *Goths*, 97–109; Lenski, *Failure*, 322–23.
11. Basil, *Ep.* 268; Jonah 2:1–10, Daniel 3:19–30.

12. The three Hebrews in the fiery furnace, in addition to the Maccabees, also provided a major scriptural inspiration for early Christian interpretations of martyrdom. See W. H. C. Frend, "Martyrdom and Political Oppression," in *The Early Christian World*, ed. Philip Esler, 2:815–39, at 816–17 (New York: Routledge, 2000).
13. It does not appear that Shadrach, Meshach, and Abednego come into play because they were part of the Babylonian deportation from Judah. Rather, Basil seems to select them because they received and triumphed over state coercion, ignoring the fact that they were exiles.
14. On the role of martyrial rhetoric in nonconventional venues, see Gaddis, *Crime*, 68–102; see also, on the literary production of martyrs, Elizabeth Castelli, *Martyrdom and Memory: Early Christian Culture Making* (New York: Columbia University Press, 2004), though her focus is mainly on pre-Constantinian materials.
15. Letter known as *Quamvis sum imagine*: Hilary of Poitiers, *Fragmenta historia* B VII.2.1–2.
16. Eusebius of Vercelli, *Ep.* 2.7.1–2.
17. Ambrose, *Ep. extra collectionem* 14.68, 70.
18. Quotation from Markus, *End*, 25.
19. See Barnes, *Athanasius*, 24–5.
20. CTh 16.5.3. Personal confiscation could accompany exile as a combination of punishments applied to heretics, see for instance CTh 16.5.10. However, considering that the laws which threaten banishment against heretics nearly omit personal confiscation, it seems clear that the two elements were uncoupled.
21. Henry Chadwick, "The Role of the Christian Bishop in Ancient Society," in *The Role of the Christian Bishop in Ancient Society*, ed. Henry Chadwick, Edward Hobbs, and Wilhelm Wuellner, 6 (Berkeley: The Center for Hermeneutical Studies in Hellenistic and Modern Culture, 1980). Jones, *Empire*, 2:895. Brown, *Poverty*, 26–32, 55. Relevant essays appear also in Susan R. Holman, ed. *Wealth and Poverty in Early Church and Society* (Grand Rapids: Baker Academic, 2008).
22. See, for example, letter 7*, in which Augustine attempts delicately to solve the problem of a donation explicitly banked for the church by a man, now dead, whose widow had withdrawn that amount from the bank and not given it to the church. Invaluable is Robert Eno's introduction in the Fathers of the Church series, vol. 81 (= Augustine, *Letters*), which itself follows the analysis in Jean Andreau, "La Lettre 7*, document sur les métiers bancaires," in *Les Lettres de Saint Augustin découvertes par Johannes Divjak: Communications présentées au colloque des 20 et 21 Septembre 1982*, 165–76 (Paris: Etudes Augustiniennes, 1983).
23. Augustine, *Ep.* 126.7. Augustine's estimate that the wealth of the church is twenty times greater than his own should not be taken as a firm figure, but rather as an indication of the lopsided relationship between the two.
24. Jones, *Empire*, 2:896.
25. On the life and dates of Sulpicius, see Clare Stancliffe, *St. Martin and his Hagiographer: History and Miracle in Sulpicius Severus* (Oxford: Clarendon Press, 1983), 15–16. The passage in question specifically states that the events occurred forty-five years previous.
26. Sulpicius Severus, *Chronicle* 2.39.9.
27. Barnard, "Criminalisation," 137–38; see pp. 47–52.
28. See G. F. Diercks, *Luciferi Calaritani Opera quae supersunt*, CCSL 8 (Turnholt: Brepols, 1978), vii–xviii; xxvii–xxxiv.
29. Three locations: Hanson, *Search*, 509; four locations: Diercks, *Luciferi*, xiii.

30. On the difficulties of plotting Lucifer's movements or establishing the chronological order of his works, see Hanson, *Search*, 510 (though Hanson does provide a date range for each of the works) and Diercks, *Luciferi*, xix.
31. Hanson, *Search*, 322–3.
32. A minimal form of “banishment” could occur in the form of house arrest. This phenomenon is attested to in the earlier empire, as the jurist Ulpian, at D 48.22.9, confirmed the right of governors to condemn a person to such a punishment. The editors of Justinian's Digest considered such a ruling as one treating the issue of banishment, and hence located it in the section treating interdiction, relegation, and deportation.
33. On the Roman prisons, see Jens-Uwe Krause, *Gefängnisse im Römischen Reich* (Stuttgart: F. Steiner, 1996).
34. Cf. the exile colonies revealed in the Republican period by Kelly, *History*, 80–81, 83, 108–10, 128.
35. Robinson, *Penal*, 189.
36. D 48.22.7.9.
37. Ammianus 22.3.6, 28.1.22–3. Unfortunately, little is known about Dalmatia after the third century. J. J. Wilkes, *Dalmatia* (Cambridge: Harvard University Press, 1969), 146. PLRE I: Iulius Festus Hymetius.
38. Antiochene monks: Theodoret, *HE* 4.22.36; Paul of Constantinople: Athanasius, *History of the Arians* 7.3; Hilarius: Palladius, *Dialogue on the Life of John Chrysostom* 20.
39. Paul of Constantinople: Athanasius, *History of the Arians* 7.3; Socrates 2.26.6, 5.9.1. But see Gilbert Dagron, *Naissance d'une capitale: Constantinople et ses institutions de 330 à 451* (Paris, Presses universitaires de France, 1974), 425–35; Barnes, *Athanasius*, Appendix 8. John Chrysostom: e.g. *Ep. IX to Olympias*.1.1, 2.b. See Kelly, *Golden Mouth*, 257–60.
40. Palladius, *Dialogue on the Life of John Chrysostom* 11; Jerome, *Ep.* 60.16. Kelly, *Golden Mouth*, 282. Though it is rather general, we learn or glean that Thrace was the exilic location of Eustathius of Antioch in 330–1, Liberius of Rome in 355, and Eusebius of Samosata in 374. Eustathius: R. V. Sellers, *Eustathius of Antioch and his Place in the Early History of Christian Doctrine* (Cambridge: Cambridge University Press, 1928), 50–1, leaning mostly on Jerome, *Illustrious Men* 85, sifts the evidence and cautiously concludes that this was the most likely destination. Liberius: Theodoret, *HE* 2.17.1; Sozomen 4.11.3; see also Athanasius, *History of the Arians* 40; Ammianus 15.7.6. Eusebius: Basil of Caesarea, *Epp.* 181, 237, 268; Theodoret, *HE* 4.14.
41. Roger Bagnall and Dominic Rathbone, *Egypt from Alexander to the Early Christians* (Los Angeles: Getty Publications, 2004), 249.
42. Zosimus 5.9.6.
43. Palladius, *Dialogue on the Life of John Chrysostom* 20.
44. Theodoret, *HE* 4.15.8.
45. Evagrius 1.7.
46. The settlements in the Oasis, however, may not have been utterly savage. Though very little archaeological work has been done on this area, several significant structures from the later Roman period are known, such as the Bagawat cemetery northwest of Hibis, the later Roman fort of Ain Labakha, and the fourth-century churches of Kellis; see Bagnall and Rathbone, *Egypt*, 252–66.
47. Recall that with CTh 9.32.1 Theodosius II set the penalty for the accomplices of those who diverted the Nile as *deportatio* to the Oasis.
48. Tertullian, *Apology* 12.
49. For instance, Ulpian: D 1.12.1.3; Papinian: D 24.3.42; 31.77.4. Gaius: D 28.1.8.2–3.

50. PS 1.21.4–5; 2.21b.1b; 2.26.14–15; 3.4a.9; 3.6.29; 4.7.1; 4.8.22; 5.4.14–15; 5.15.5; 5.19a; 5.20.2; 5.20.5; 5.21.1; 5.21.4; 5.22.1–3; 5.22.5; 5.23.11(10); 5.23.13–14; 5.23.18–19; 5.25.1; 5.25.2; 5.25.4; 5.25.7; 5.25.9–10(9); 5.26.3; 5.30a.
51. CTh 1.5.3; 3.5.5; 3.16.1; 8.5.4; 9.16.1; 10.11.1; 11.34.1; 12.1.6.
52. Certain laws under Honorius do impose island banishment; see CTh 16.5.53, 16.5.54.1. CTh 9.38.10, also from Honorius's court, speaks of those in "various servitudes" on islands.
53. Sulpicius Severus, *Chronicle* 2.51.
54. Ammianus 22.3.1–6. PLRE I: Florentius 3, Palladius 4.
55. Ammianus 28.1.21. PLRE I: Frontinus 3.
56. Exile colonies did develop under Republican Rome, but this arose out of a different set of conditions: exiles were allowed to choose their destinations.
57. See pp. 96–97.
58. Ammianus 28.3.4. For a plausible reconstruction of events, see Peter Salway, *Roman Britain* (Oxford: Clarendon Press, 1981), 395.
59. Philostorgius 10.6. See also Socrates 5.20.4; Hanson, *Search*, 616.
60. John Chrysostom, *Ep.* 127. See Kelly, *Golden Mouth*, 259–60.
61. Occasionally, an exile might in fact be safer in territories menaced by barbarians than back at home. Theodoret, *HE* 5.4.9 remarks on the fact that Eusebius of Samosata managed to endure the Gothic uprisings while in Thrace but was murdered after his recall; see Philip Rousseau, *Basil of Caesarea* (Berkeley: University of California Press, 1998), 258n122.
62. Evagrius 1.7. Nestorius's situation posed complicated legal dilemmas: Where should one go if he was both banished to an area and a refugee fleeing from it? Would going somewhere else constitute an act of defiance? Nestorius's writings show an understandable nervousness around these topics. See Bagnall and Rathbone, *Egypt*, 146; Millar, *Greek Roman*, 59–66.
63. On the edges of the Empire, see C. R. Whittaker, *Rome and its Frontiers: The Dynamics of Empire* (New York: Routledge, 2004). A possible exception comes from the case of Oribasius; PLRE I: Oribasius. Eunapius, *Lives of the Sophists* 498 indicates that this doctor was banished to the barbarians under the emperors succeeding Julian. The successors in question probably would have been Jovinian, Valens, or Valentinian, collectively. Baldwin, "Oribasius," 95n54 notes that Eunapius hardly ever mentions the names of the emperors who followed Julian. Eunapius also does not indicate which barbarians these were, though the Germanic tribes have been put forward as a guess. See André Piganiol, *L'empire Chrétien (325–395)*, 2nd ed. (Paris: Presses universitaires de France, 1972), 172–74; Baldwin, "Oribasius," 95–96. The account reads as though Oribasius had been banished beyond the Empire, but given its vagueness, it is certainly possible that the doctor had been sent instead to the frontier.
64. Eusebius of Vercelli, *Ep.* 2.1.2–6. Washburn, "Tormenting," 739–43.
65. The letters of Gregory of Nazianzus also are of service. See Gregory Nazianzus, *Epp.* 64, 65, 66. The latter two letters are sometimes ascribed to Basil. See also Basil, *Ep.* 267 to Barses of Edessa, which exhibits similar traits. On ancient and early Christian correspondence, see S. R. Llewelyn and R. A. Kearsley, *New Documents Illustrating Early Christianity: A Review of the Inscriptions and Papyri Published in 1982–83* (Grand Rapids: William B. Eerdmans, 1994), 1–111; Blake Leyerle, "Communication and Travel," in *World*, ed. Esler, 1:452–74; Delmaire, "Lettres."
66. Eusebius passed through it on his way into banishment, see Gregory of Nazianzus, *Ep.* 64.
67. Rousseau, *Basil*, 257.

68. Basil, *Ep.* 237. On the date of letter, see Lenski, *Failure*, 323n15, who dates it to early 376.
69. Basil, *Ep.* 198. Peraequatores were officials who reviewed censuses; Jones, *Empire*, 1:455, 537.
70. Basil, *Ep.* 198.
71. The empire-wide network of the *cursus publicus* was not a postal service, but a means of conducting governmental officials and necessary freight, such as foodstuffs, military arms, and construction materials. See Jones, *Empire*, 2:830–31; Anne Kolb, “Transport and Communication in the Roman State: The *cursus publicus*” in *Travel and Geography in the Roman Empire*, ed. Colin Adams and Ray Laurence (New York: Routledge, 2001), 95–105.
72. Basil, *Ep.* 198, trans. Way.
73. See p. 124 and Kenneth Holm, *Theodosian Empresses: Women and Imperial Dominion in Late Antiquity* (Berkeley: University of California Press, 1982), 129.
74. Olympiodorus, *Fragment* 38, trans. Blockley.
75. Cf. Garnsey, *Social*, 120. There are some curiosities that *might* imply state support. Hilary, *Against Constantius* 11 accuses Constantius of relegating Paulinus of Trier to a remote location so that the exile would not take food from an imperial granary or seek assistance from the Montanists. The gist of Hilary’s insult is unclear; see Barnes, “Hilary,” 133. Recall also that when Honorius’s court dealt with Priscus Attalus, it not only maimed him but, according to Philostorgius 12.5 (=Olympiodorus, *Fragment* 26), sent him to Lipara and supplied him with “the necessities for life [τὰς εἰς τὸν βίον χρεῖας].” Attalus was not a typical exile, and his circumstances probably bespeak the eccentricities of politics at the highest level.
76. For the background and outlines of this occasion, see Brian Croke and Jill Harries, *Religious Conflict in Fourth-Century Rome* (Sydney: Sydney University Press, 1982), 28–30. Cf. McLynn, *Ambrose*, 166, 264, who argues that the episode was a non-event.
77. Ambrose, *Ep.* 73.16.
78. Leo, *Sermon* 10.2 (= *On the Collections* 5).
79. Diagnosing the possible origins of charitable support specifically targeting exiles lies beyond the scope of the present argument, but I suspect that institutional care for exiles grew out of episcopal care for strangers. Justin Martyr, *Apology* 67, indicates that the well-off members of churches give willingly to the community’s “president” [ὁ προεστώς], who used the funds to assist orphans, widows, the sick, the imprisoned, and foreigners. Perhaps this last use of donations gave rise to exilic charity. Tertullian, *Apology* 39.6, appears to assume some process of this sort.
80. Something of the sort took place after the end of Roman rule in the west. Bishop Faustus of Riez was banished under Euric, king of the Visigoths, and received support from Ruricius of Limoges; see Faustus’s letter *Gratias ad vos*; Ralph Mathisen, *Ruricius of Limoges and Friends: A Collection of Letters from Visigothic Gaul* (Liverpool: Liverpool University Press, 1999), 104–105.
81. Palladius, *Lausiaca History* 46.3–4. In one way, it is curious that the augustal prefect would send the condemned away from Egypt, given that his jurisdiction included contained the exilic destination par excellence. However, the fact that the exiles were ascetics could have altered the equation; it made little sense to punish desert ascetics by sending them to the desert.
82. Melania was, however, apprehended by the governor in Palestine. At this point, it was her unflappable moxie as an aristocrat that that helped her stand down the magistrate. See Brown, *Body*, 280.

83. See Grasmück, *Exlium*, 146–47.
84. PLRE II: Jovius 3, Allobichus.
85. Zosimus 5.47. PLRE II: Turpilio, Vigilantius.
86. Tacitus, *Histories* 1.46.
87. PLRE II: Paulinus 8. See *Chronicon Pascale* 444, but also Holum, *Empresses*, 177, 194.
88. John Malalas 380. PLRE II: Fl. Basiliscus 2. See Heather, *Goths*, 157–58.
89. PLRE I: Apollinaris 1, Apollinaris 2.
90. Ammianus 14.9.8.

NOTES TO CHAPTER 7

1. For an idealized form of reentry, see the account of Athanasius by Gregory Nazianzus, *Or.* 21.27–29. Barnes, *Athanasius*, 266n27 points out that Gregory conflates this return with others that Athanasius experienced. See also Sabine MacCormack, *Art and Ceremony in Late Antiquity* (Berkeley: University of California Press, 1981), esp. 21–28 on the Gregory’s resonances with the *adventus* ceremony.
2. Ammianus 29.2.9–11.
3. Ammianus 29.2.11.
4. Pliny, *Ep.* 10.56, on Publius Servilius Calvus.
5. Piny, *Ep.* 10.56, on one condemned by Julius Bassus.
6. CTh 9.38.10.
7. D 48.23.3.
8. D 48.23.1–2, 4.
9. D 48.23.1.
10. D 48.23.2.
11. Alexander: CJ 9.51.5 (which speaks only of being sent to an island, without reference to a more specific sentence); Gordian: CJ 9.51.6; Philip: CJ 9.51.7; Diocletian and Maximian: CJ 9.51.9. However, the harmony between these verdicts may be misleading. They were selected and organized by Justinian’s lawyers. It is quite possible that these laws were chosen because they cohered nicely and others were omitted because they did not.
12. CTh 9.43.1.pr.
13. CTh 9.43.1.3.
14. See also CT 1.4.3, which may be the same law; see Harries, “Constantine,” in *Tetrarchs*, ed. McGill, Sogno, and Watts, 77–79.
15. CTh 9.43.2.
16. It is all too easy to assume and overstate the impact of Christian thought on Constantine’s legislation. See Evans Grubbs, *Law*, esp. 317–321.
17. I take CTh 1.4.3 as at least consonant with CTh 9.43.1, if not the identical law.
18. A classic statement on the functions of punishments, including correction, comes from Plato, *Gorgias* 525 A–C. The second-century author, Aulus Gellius (*Attic Nights* 7.14) also discusses the rehabilitative prospects of justice, adding a third purpose (to restore the honor of the injured party) to Plato’s conventional two reasons: to reform the criminal and to inspire fear in others. In late antiquity, letters to and from bishops also take up this question in distinctive ways; see Basil, *Ep.* 280; Augustine, *Epp.* 153, 250. For a general discussion, see Richard Bauman, “The ‘Leges iudiciorum publicorum’ and their Interpretation in the Republic, Principate and Later Empire,” in *Aufstieg und Niedergang der römischen Welt* Part II, no 13, ed. Hildegard Temporini and Wolfgang Haase, 103–233, esp. 189–200 (Berlin/New York: De Gruyter, 1980); idem, *Crime*, 156–59.

19. Firmicus Maternus, *Mathesis* 2.29.10. See also the case of Publilius Optatianus Porfyrius, whose fate may have been linked to the native and who became urban prefect after his recall: Barnes, "Publilius," 173–86.
20. The native returned before the death of Constantine. Maternus did not know of Constantine's death when he penned the *Mathesis*: Barnes, "Senators," 40; see *ibid.*, 43, on the identification of the native as Ceionius Rufus Albinus, who served as prefect of Rome from 335 through 337.
21. The redactors of the Theodosian Code named the title of imperial constitutions concerning recall *De indulgentiis criminum*. See Jean Gaudemet, *Indulgentia principis* (Trieste: Arti grafiche Smolars, 1962); Wolfgang Waldstein, *Untersuchungen zum römischen Begnadigungsrecht: abolitio, indulgentia, venia* (Innsbruck: Wagner, 1964), esp. 165–67.
22. On the earlier Rome, see Bauman, *Crime*, 6–14, who sees a tension between rival values in classical Roman punishments. On one hand, *humanitas* inveighed in favor of showing clemency toward the guilty. On the other hand, an opposite force exerted by the public interest, *utilitas publica*, operated on Roman justice. Bauman takes voluntary exile as the first and iconic representation of *humanitas*'s influence. Kelly, *History*, 8–9, 13, argues that this value had little practical influence on Roman affairs and emphasizes *concordia* instead.
23. Richard Saller, *Personal Patronage under the Early Empire* (Cambridge: Cambridge University Press, 1982), 42.
24. Saller, *Patronage*, e.g. 38, 57, 69.
25. Kelly, *History*, 98 and 130 notes that those receiving clemency might well resent it; in the early Empire, see Krause, *Gefängnisse*, 218–19.
26. Plutarch, *Life of Sulla* 34.
27. See also Millar, *Emperor*, 541; Krause, *Gefängnisse*, 220, who lists several examples in the later imperial period. For the inception of this trend, see, Kelly, *History*, 98.
28. Eusebius, *The Martyrs of Palestine* 2.4, short recension.
29. E.g. Constantine: Eusebius, *Life of Constantine* 1.41, 2.24–42; see Jones, "Genuineness," 197–200; Evans Grubbs, *Law*, 22. Julian: Julian, *Ep.* 15; Socrates 3.1.48; Sozomen 5.5.1; Rufinus, *HE* 10.28; see Bowersock, *Julian*, 71. Perhaps Valentinian II: Ammianus 29.3.7.
30. CTh 9.38.3. There is some confusion on the law's date (it bears the names of Valentinian, Valens, and Gratian), but Valentinian's court is the likeliest candidate.
31. CTh 9.38.4, 9.38.6, 9.38.7, 9.38.8. See also Sirm. 7, 8; Ambrose, *Ep.* 76.6; Krause, *Gefängnisse*, 221.
32. On Christian influence over the reckoning of time, see Markus, *End*, 125–35; Michele Salzman, *On Roman Time: The Codex-Calendar of 354 and the Rhythms of Urban Life in Late Antiquity* (Berkeley and Los Angeles: University of California Press, 1990), 235–6.
33. See Maribel Dietz, *Wandering Monks, Virgins, and Pilgrims: Ascetic Travel in the Mediterranean World, A.D. 300–800* (University Park: The Pennsylvania State Press, 2005), 111.
34. Eusebius, *Life of Constantine* 3.44.
35. Eusebius, *Life of Constantine* 3.45.
36. Julian, *Ep.* 17, 426c.
37. Rochelle Snee, "Valens' Recall of the Nicene Exiles and Anti-Arian Propaganda," *Greek, Roman and Byzantine Studies* 26 (Winter 1985): 395–419, catches the reallocation of credit and shows that Syriac *Chronicon Edessenum* demonstrates that the exiles returned while Valens still ruled.
38. Socrates 5.2.1; Sozomen 7.1.3; Theodoret, *HE* 5.2.1.
39. Snee, "Valens," 405–406.

40. Augustine, *Answer to Faustus, a Manichean* 5.8; see Brown, *Augustine*, 325; Lieu, *Manichaeism*, 175, who estimates Faustus's time spent in banishment at less than one year.
41. CTh 6.30.16, 6.30.17, 9.30.5, 14.11.1, 14.14.1, 14.15.6; offenders punished under CTh 14.10.2–3 could also have fallen under the sweeping pardon. And these are only the laws that survive. Many others could possibly have been issued.
42. CTh 9.16.2.pr.
43. See CTh 5.7.1; Sirm 16; NAnth 3.1.
44. CTh 9.32.1.
45. Sulpicius Severus, *Chronicle* 2.48.5–6. See PLRE I: Macedonius 3; Lieu, *Manichaeism*, 149.
46. On open letters and techniques used to realize recall in the pre-80s Republic, see Kelly, *History*, 86, 93.
47. Claassen, *Displaced*, 103.
48. E.g., Hilary of Poitiers's *Letter to the Emperor Constantius*, which propounds the author's innocence, failed to generate an effect.
49. Military triumphs: Timothy Barnes, "Publilius Optatianus Porfyrius," *The American Journal of Philology* 96, no. 2 (1975): 178–83; Christ and Apollo: Linda Jones Hall, "Words as Display: The Figural Poems of Publilius Optatianus Porfyrius," (paper presented at Open Communications [*Communications libres*], 21st International Congress of Byzantine Studies, London, August 2006); format: William Levitan, "Dancing at the End of the Rope: Optatian Porfyrus and the Field of Roman Verse," *Transactions of the American Philological Association* 115 (1985): 245–269 at 249. I am very grateful to Linda Jones Hall for her help on this author.
50. Jerome, *Chronicle* 277th Olympiad.e.
51. Hall, "Words."
52. G. E. M. De Ste Croix, *Christian Persecution, Martyrdom, and Orthodoxy*, ed. Michael Whitby and Joseph Streeter (Oxford: Oxford University Press, 2006), 297.
53. Letter reproduced in Socrates 1.14.1–6; Sozomen 2.16.2–5. Eusebius and Theognis seem to have made their peace with the creedal formulation of the council, but were unable to accept its anathemas. The argument that the anathemas misrepresented Arius would not have been compelling: if that was the only problem, then the bishops should have had no difficulty with condemnations that targeted something other than their, or Arius's, views. Eusebius and Theognis's lame explanation probably represents the best face that they could put on the situation.
54. This work is also known as *De confessione verae fidei et ostentatione sacrae communionis et persecutione adversantium veritati*; see Aline Canellis, "Arius et les 'Ariens' vus par les Lucifériens dans le Libellus Precum de Faustin et Marcellin," *Studia Patristica* 36 (*Papers presented at the Thirteenth International Conference on Patristic Studies held in Oxford 1999: Critica et philologica, Nachleben, First Two Centuries, Tertullian to Arnobius, Egypt before Nicaea, Athanasius and his Opponents*), ed. Maurice Wiles and Edward Yarnold, 489–501 (Leuven: Peeters Press, 2001).
55. On Ursinus and his rival Damasus, see Ammianus 27.3.12–13, 27.9.9; Rufinus, *HE* 11.10; Ambrose, *Ep. extra collectionem* 11; *Collectio Avellana* #5–13 (=CSEL 35:48–58; C-N 1:311–20, 328–30, 345–50); see also Adolf Lippold, "Ursinus and Damasus," *Historia* 14 (1965): 105–28.
56. These assertions pervade the entire missive, but see esp. 3–4, 20, 86–91.
57. Faustinus and Marcellinus, *Libellus precum* 111; 1 Kings 19:10 (I have directly translated the authors' biblical citation instead of substituting a modern translation).

58. *Collectio Avellana* 2a (=C-N 390–92). On the composition of this law, see Honoré, *Crisis*, 53.
59. On Theodosius and religion, see Stephen Williams and J. G. P. Friell, *Theodosius: The Empire at Bay* (New Haven: Yale University Press, 1995), 119–33.
60. Saller, *Patronage*, 57, 74–75, 77, utilizing anthropologist Jeremy Boissevain’s work. See Jeremy Boissevain, *Friends of Friends: Networks, Manipulators and Coalitions* (Oxford: Blackwell, 1974), 147–69.
61. On patronage, in addition to Saller, see Peter Garnsey, “Roman Patronage,” in *Tetrarchs*, ed. McGill, Sogno, and Watts, 33–54, esp. 47–54; on the permutations in this period, see Jennifer Valerie Ebbeler and Cristiana Sogno, “Religious Identity and the Politics of Patronage: Symmachus and Augustine” *Historia* 56 no. 2 (2007): 230–42; on bishops’ roles in patronage, especially in Syria, see Adam Schor, *Theodoret’s People: Social Networks and Religious Conflict in Late Roman Syria* (Berkeley and Los Angeles: University of California Press, 2011), 133–55.
62. Saller, *Patronage*, 75–77. Holy man: Brown, *Society*; saint: Peter Brown, *The Cult of the Saints: Its Rise and Function in Latin Christianity* (Chicago: University of Chicago Press, 1981), 64–68; bishop: idem, *Power*, 102; *Poverty*, 84.
63. Excellent case studies on friends and connections in McLynn, *Ambrose*, 261–69, 296, 311.
64. Kelly, *Ruling*, 108–113.
65. Brown, *Cult*, 33. Libanius, *Or.* 47, esp. 3–6, 13; Brown, “Holy Man,” 117; Kelly, *Ruling*, 165, 169–71.
66. Eunapius, *Lives of the Sophists* 488; see Watts, *City*, 59–61.
67. Ammianus 15.3.10–11. PLRE I: Flavius Arbilio 2.
68. Ammianus 27.32, 27.7.3. PLRE I: Vulcacius Rufinus 25.
69. The exilic machinations of Theodoret, condemned for supposed misconduct and heresy, point in a similar direction. It is clear that this bishop benefited from the accession of a new emperor (Marcian) and office-holders who elected to promote his cause (Aspar and Vincomalus). It is not possible to tell, though, what made the decisive difference for the bishop’s recall. See Theodoret, *Epp.* 141–42 (for Theodoret’s letters, I follow the SC numbering system); PLRE II: Fl. Ardabur Aspar, Ioannes Vincomalus; Schor, *Theodoret’s*, 178.
70. Kelly, *History*, 73–74. In the first century, Ovid, *Ep.* 3.1.131, hoped Livia would intercede with Augustus for him; see Saller, *Patronage*, 65. In the second century, Apuleius, *Metamorphoses*, 7.6–7, depicts the wife of an exile successfully petitioning the emperor for her husband’s recall; see Millar, *Emperor*, 539–40.
71. See, e.g., Brown, *Body*, 10–17; Anne Carson, “Putting Her in Her Place: Women, Dirt, and Desire” in *Before Sexuality: The Construction of Erotic Experience in the Ancient Greek World*, ed. David Halperin, John Winkler, and Froma Zeitlin, 135–70, at 153–58 (Princeton: Princeton University Press, 1990) reveals an earlier era but persistent attitudes; Shaw, “Body,” esp. 278–84, 291–300 on ὑπομονή/*patientia* (passive endurance) as a “womanish” virtue; Teresa Shaw, *The Burden of the Flesh: Fasting and Sexuality in Early Christianity* (Minneapolis: Fortress Press, 1998), esp. 64–78; Kathrin Schade, “The Female Body in Late Antiquity: Between Virtue, Taboo and Eroticism,” in *Bodies and Boundaries in Graeco-Roman Antiquity*, ed. Thorsten Fögen and Mireille M. Lee, 215–34 (Berlin: Walter de Gruyter, 2009).
72. See, e.g., Clark, *Women*, 119–38.
73. Hippolytus, *Refutation of All Heresies* 9.12.10–13.
74. Sozomen 3.19.2–3. PLRE I: Constantia 1.
75. Theodoret, *HE* 2.17.1–4.

76. See Athanasius, *Defense against the Arians* 89, *History of the Arians* 41; Barnes, *Athanasius*, 138.
77. The *Liber pontificalis* 37 preserves some sense of female intervention as well. In the *Liber*, Liberius returns to the cemetery of St. Agnes outside the city walls. It is finally with the assistance of Constantius's sister, the Augusta Constantina, that Liberius makes his return. Though fictionalized, this account rests on the belief that an empress would have some clout.
78. On acclamations, see Colin, *villes*; Roueche, "Acclamations"; Aldrete, *Gestures*.
79. Aldrete, *Gestures*, 125.
80. Theodoret, *HE* 2.17.4–7; Sozomen 4.11.12, emphasizes the popular petition for Liberius's recall and does not mention petitions from Roman matrons.
81. Both historians' accounts present Liberius in an impressive light that does not take into consideration his retractions in banishment. See Monald Goemans, "L'exil du Pape Libère," in *Mélanges offerts à Mademoiselle Christine Mohrmann*, ed. Christine Mohrmann, 184–89 (Utrecht: Spectrum, 1963); Timothy Barnes, "The Capitulation of Liberius and Hilary of Poitiers," reprinted in his *From Eusebius to Constantine: Selected Papers, 1982–1993* (Brookfield: Variorum, 1994).
82. A potentially unauthentic document attributed to Amphilocheus of Iconium (fourth century) believed that Valens rescinded his order to banish the bishop Basil because of popular protest; see Amphilocheus, *Homily on the Life of Basil* 325–27. The majority of ancient evidence indicates that the reason for Valens's change of heart was the illness of his son: see Lenski, *Failure*, 254n246.
83. Though their request does not survive, the emperor's negative response remains: Julian, *Ep.* 47.
84. Theophanes, *Chronicle* a.m. 5945; Evagrius 2.5.
85. See McLynn, *Ambrose*, 81.
86. Socrates 1.14.1–6; Sozomen 2.16.2–5. The letter is an exercise in restraint. It says no more than it has to and never outright endorses the term *homooousios*. What it does say, however, is that, if Arius was allowed to return, then the bishops who supported him should receive the same opportunities.
87. Socrates 1.14.5–6.
88. Hilary, *Fragmenta historica* B VII.10.
89. The term *pax* occurs eight times in the short (thirty-six line) letter; *concordia* four times. Gaddis, *Crime*, 68–69, observes that this emphasis on harmony over doctrinal purity represents a reversal of Liberius's earlier prioritization of correct faith above ecclesiastical accord. On the other hand, Liberius's decision to accept peace over purity amounts to only a partial act of retraction. He does not so much admit error as accept to live harmoniously with others, regardless of who was right.
90. Goemans, "L'exil," 188–89, observes that Liberius's enemies were holding out for more. The fact that this letter failed to produce results suggests that the author's tone may have alienated the recipients.
91. Council of Serdica can. 8, trans. Hess; cf. can. VII of the Greek recension.
92. On ecclesiastical sanctuary, see Anne Ducloux, *Ad ecclesiam confugere: Naissance du droit d'asile dans les églises (IV^e-milieu du V^e s.)* (Paris: De Boccard, 1994), who surveys the legal and historical evidence for the right of ecclesiastical asylum in the fourth and fifth centuries; Rapp, *Bishops*, 253–60, who suggests that asylum may have originated from the person of the bishop rather than from the building itself.
93. For some examples, see Brown, *Poverty*, 70. See also Ambrose, *Ep.* 74.25, on a bishop's claim to have obtained pardons from the emperor.

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